

File Microcopies of Records in The National Archives: No. 37

Roll 1

RECORDS OF THE DEPARTMENT OF STATE:  
COMMUNICATIONS FROM SPECIAL AGENTS

Volume 1

April 3, 1794 - October 30, 1811



THE NATIONAL ARCHIVES

Washington: 1943

## INTRODUCTION

In this microcopy are reproduced nine volumes of communications and enclosures forwarded to the Department of State by special agents and other persons between April 3, 1794, and June 19, 1828. The papers assembled in these volumes have little in common. Perhaps the greater number were kept separate from the various series of diplomatic or consular despatches or from the series entitled "Miscellaneous letters" because the letters of special agents often contained secret or confidential information. Such letters formed the nucleus for an accumulation of miscellaneous materials, most of which were filed as bundles of loose papers until, in the present century, they were bound in volumes labeled "Special Agents." The series thus designated was discontinued in 1906 with Volume 50.

Though the nature and purpose of the series can hardly be stated in general terms, the contents of the volumes included in this microcopy may be indicated by an alphabetical list of the twenty-five writers represented, with the function of each, the places where his letters were written, the date of his first and his last letter, and the volume in which his letters are bound:

Samuel Bayard, agent to prosecute claims and appeals in prize cases in Great Britain: letters from the United States and London (November 9, 1794 - May 16, 1798), vol. 1

James Biddle, commanding a vessel of the United States Navy despatched to the Columbia River: letter from New York (October 2, 1817), vol. 6

Edward Coles, bearing despatches from Saint Petersburg: letters from Hamburg and Amsterdam (December 14 and 23, 1816), vol. 4

Daniel P. Cook, agent of the United States to Cuba: letters from the United States (March 12 and 16, 1827, and a later undated letter of 1827), vol. 9

Henry Craig, "Agent for Impressed Seamen at Windward Islands": letter from Martinique (October 24, 1798), vol. 1

John Dorr, agent for the owners of the Esther, which had been condemned at Lima: letters from Boston (October 14 and 24, 1823; October 7, 1825), vol. 6

Ninian Edwards, announcing the death of Daniel P. Cook:  
letters from Belleville, Illinois (November 1, 1827,  
and January 2, 1828), vol. 9

Samuel D. Forsyth, agent to Venezuela: letters from the  
United States, Angostura, Apure, and Caracas (April  
17, 1820 - June 14, 1821), vol. 9

Robert Monroe Harrison, consul at Saint Bartholomew,  
commissioned to inspect the British West Indies:  
letters from Antigua, Dominica, Barbados, British  
Guiana, Tobago, Grenada, Jamaica, and other British  
colonies (July 19, 1827 - June 19, 1828), vol. 9

N. C. Higginson, agent to investigate the seizure and  
condemnation of American ships in the British West  
Indies: letters from the United States, Barbados,  
and Martinique (April 3 - July 2, 1794), vol. 1

Christopher Hughes, agent to adjust claims growing from  
the seizure of American ships at Cartagena, Colombia:  
letters from the United States (March 14 - July 6,  
1816), vol. 4

Baptis Irvine, agent to Venezuela: letters from the  
United States, Saint Thomas, Margarita, Angostura,  
and Trinidad (February 20, 1818 - March 27, 1819),  
vol. 4

Jacob Lewis, agent to Cumaná, Venezuela, and Maracaibo,  
later agent for commerce and seamen at Port au  
Prince, Haiti: letters from Port au Prince (October  
1, 1804) and the United States (May 1, 1817 - May  
14, 1819), vol. 4

Alexander McRae, secret agent in Europe to observe  
the proceedings of diplomats with reference to  
South America: letters from Paris and London  
(April 16, 1824 - January 4, 1825), vol. 9

Anthony Morris, agent to Spain: letters from Cádiz  
and Madrid (December 17, 1813 - December 15, 1815),  
vol. 4

Joel Roberts Poinsett, agent to South America: letters  
from Chile and Argentina (February 20, 1813 -  
September 16, 1814), the United States (May 27,  
1817; November 4-8, 1818), and Cuba (ca. 1823), vol. 3

John B. Prevost, agent to take possession of the Columbia River for the United States, and agent to Chile and Peru: letters from the United States (July 10 - October 4, 1817), Rio de Janeiro (November 25, 1817), Monterey, California (November 11, 1818), and Argentina, Chile, and Peru (February 9, 1818 - January 10, 1825), vol. 6

Stanhope Prevost, vice consul at Lima: letters from Lima (January 29 and July 26, 1825), vol. 6

Thomas Randall, agent for commerce and seamen in Puerto Rico and Cuba: letters from Havana (May 7 - October 15, 1824) and Washington (March 21, 1825), vol. 9

T. B. Robertson, declining appointment as agent to Cuba: letter from Magnolia, near Baton Rouge (January 19, 1826), vol. 9

Jeremy Robinson, agent for commerce and seamen for Peru and Chile, who proceeded to South America after his commission was revoked: letters from the United States, Chile, and Peru (August 4, 1817 - February 21, 1823), vol. 5

Alexander Scott, agent for the relief of earthquake sufferers at La Guayra, Venezuela: letters from the United States, Caracas, Puerto Cavello, Saint Thomas, and Puerto Rico (April 21, 1812 - April 17, 1813; May 10, 1815), vol. 4

William Shaler, agent for commerce and seamen at Havana and New Orleans, later assistant to the American plenipotentiaries at Ghent: letters from Havana, New Orleans, Natchitoches, the United States, and Ghent (August 5, 1810 - March 5, 1815), vol. 2

John Spear Smith, chargé d'affaires in Great Britain: letters from London (September 14 - October 30, 1811), vol. 1

Edward Wyer, agent to Hayti and Santo Domingo, sent to secure indemnity for the seizure of American property during the reign of Christophe: letters from the United States, Cape Haytien, and Port au Prince (February 7 - March 19, 1821), vol. 9.

When these volumes of "Special Agents" were bound, lists were inserted or other letters sent to the Department of State by several of the writers. Most of these letters are in early volumes of consular or diplomatic despatches. Many letters of special agents that are not included in this series will also be found among the consular and diplomatic despatches. Obviously, therefore, the title of the series does not imply that all, or most, of the special agents of the United States before 1828 are represented in the series. A list of such agents may be compiled from the volumes of instructions from the Department of State to American diplomatic and consular representatives (File Microcopy 28) and from a series of instructions bound with the title of "Special Missions," beginning in 1823.

Special mention may be made of two items (not microfilmed) that are closely related to the series of "Special Agents." The first is an envelope of loose papers shelved with the volumes of "Special Agents" and labeled "South American Missions: C. A. Rodney, John Graham, Theodorick Bland, 1815-1818." These papers include joint letters of Rodney, Graham, and Bland (November 30, 1817 - May 28, 1818), individual letters from the three and also from Joel R. Poinsett (May 23, 1817), from Henry M. Brackenridge, secretary to the commission (July 15 - November 8, 1817), and from James Biddle (October 2, 1817), and elaborate reports on Chile and Argentina by Rodney and by Graham. Apart from these documents is a volume entitled "Letters of Theodorick Bland, Minister U. S. to Buenos Ayres, 1818," which, despite its title, consists entirely of a long report by Bland on Chile and Argentina. All three reports were printed by order of the Fifteenth Congress, Second Session--those of Rodney and of Graham in House Document 2, serial 17, and that of Bland in House Document 48, serial 18.

Some of the letters bound in "Special Agents" are printed in American State Papers: Foreign Relations (Washington, 6 vols., 1832-59), and a larger selection will be found in Diplomatic Correspondence of the United States concerning Independence of the Latin-American Nations, edited by William R. Manning (New York, 3 vols., 1925). The greater part of the correspondence, however, and particularly that of Baptis Irvine and Jeremy Robinson, appears never to have been printed.

### INTRODUCTORY NOTE

The volume microcopied on this roll has the following backstrip title: "1 / Special Agents / 1794-1798 / N. C. Higginson / Samuel Bayard / Henry Craig / Department / of State." It contains letters from four persons:

From N. C. Higginson, special agent to investigate the seizure and condemnation of American ships in the British West Indies: a letter announcing his acceptance of the appointment (April 3, 1794), two letters from Barbados (May 23 and June 12, 1794), and three from Martinique (June 23 - July 2, 1794).

From Samuel Bayard, agent of the United States to prosecute claims and appeals in prize cases in Great Britain, two groups of letters: (1) from Chester (November 9, 1794), from London (June 13, 1795 - September 5, 1797), and from Brunswick, New Jersey (May 16, 1798); (2) from Philadelphia (July 16, 1794) and London (September 10, 1795 - October 31, 1797). The leaves of these letters are numbered in pencil, the first group being numbered as a continuation of the Higginson letters and the second group having new numbers from 1 to 241. No difference in subject is distinguishable between the two groups.

From John Spear Smith, chargé d'affaires of the United States in Great Britain: five letters from London (September 14 - October 30, 1811). It is not clear why these letters were bound in this volume rather than among the despatches from American ministers to Great Britain.

From Henry Craig, "Agent for Impressed Seamen at Windward Islands": a letter from Martinique (October 24, 1798).

In referring to this volume, scholars may wish to indicate that it is among the records of the Department of State in The National Archives. Since the documents are mounted on numbered leaves, and the leaves of the documents themselves are numbered in two consecutive groups, it seems probable that citation by folio number would cause confusion. The following form of citation is therefore suggested: State Department, Special Agents, vol. 1, letter of N. C. Higginson, June 23, 1794.

N. C. HIGGINSON

APRIL 16, 1794.

BRITISH WEST INDIES

Apr 3 [file april 3. 1794]  
To the Hon<sup>ble</sup> Edmund Randolph Esq<sup>r</sup>  
Secretary of State

Sir,

I have considered the  
subject on which I had the honour of conversing  
with you last evening & am persuaded that the  
assumption of the proposed task would be attended  
on my part with some certain & perhaps other un-  
foreseen disadvantages. The result of my  
reflections is that I will accept the proposed  
agency with a compensation in a few notes  
less than 2500 Dollars, admitting the term of  
absence to be four months only, that either all  
actual expenses be paid or some daily <sup>allowance</sup> ~~compensation~~  
be made for those expenses together with such other  
incidental charges as the objects of the mission  
might make it necessary to incur.  
If Sir under these circumstances I should receive  
the appointment the earliest notice of it

would be important to me as a few days  
after the notice would be necessary to prepare  
for entering on it.

I am Sir

With Sentiments of Respect

Yr most obedt

— I. H. H. servant

J. L. Higginson.

Thursday Morn. Apr. 3. 1794.

The Island of Barbados May 23. 94

Mr. The Edmund Randolph Esq.

Secy. of State for U. S.

Sir.

I arrived here yesterday morning after a passage of thirty three days from Philad.<sup>as</sup> I find that eight American vessels have been condemned in this Island - A majority of them were taken before the orders of Nov. 6<sup>th</sup> 93 were publicly known here, the remainder of them after; but all were condemned after the arrival of those of the eighth of January 1794 on the grounds that the issue before the Judge was what rights the captors had at the time of capture. No appeal has been entered in any case nor on any of the parties interested now in the Island. I shall immediately take measures to have a motion made to that effect.

I find that the allegations in the Libel & the substance of the deems are the same in all the cases. I shall procure the motion to be made in the most favourable of them. If it be overruled I shall have the record of that proceeding made up a copy of which will I presume be as available as if similar motions had been made in all the other cases.

Although my instruction relative to this point is worded in the plural (the expressions being "motions") yet a motion made in the Admiralty Court of each Island in one case on the condition above stated would literally satisfy it; while to extend it to every particular case would be a great accumulation of expense without any visible advantage.

The delay which prevails in the Admiralty office in this of I presume more of the other Islands arising partly

from causes that always apply. Perhaps now from  
the nature of my service renders it probable that the  
public business cannot be done with that dispatch  
which would consist with the wishes or the convenience of  
our government. Notwithstanding this impediment  
I must observe that as it relates to the objects to be ulti-  
mately effected things seem to wear a favourable  
appearance. As far as I have been able to ascertain  
to learn, the general understanding of people in this island  
is well of those in or of those out of power appear to be  
that the capture of our vessels was a business of policy  
with Great Britain in which future restitution or com-  
pensation was calculated upon, in such that the while  
she became in this sense the purchaser of the captured  
cargoes instead of having the right to keep the latter  
in the character of booty.

I found on my arrival here a report prevailing which  
was generally credited that a special Envoy had gone  
out from his Majesty to the United States charged  
with the business of restitution. Whether this report be  
true or false I cannot trace it to any authentic source.  
The belief of it is some evidence of the general impres-  
sion stated. Although I have not been able  
in the course of thirty four hours to furnish myself with  
any specific authentic information yet I could not  
let this opportunity to U. S. slip away without  
informing you generally that the countenance of  
affairs here was by no means so unfavourable as  
might have been expected.

Any thing should take place between the two gov-  
ernments that would render the prosecution of the business  
of my route dispensable much expense might be saved  
to the U. S. & as such an event I may I shall expect

the earliest possible notice of it — 3  
At the same time I shall proceed to an exact fulfil-  
ment of the duties imposed upon me by my in-  
structions — I presume you will have heard  
before this reaches you of the Capture of the Lucia  
Hyandaloupe to the great annoyance in possession of  
the English

With great consideration &  
Respect I am Sir  
Yr Obedt Servt  
A. C. Hopper

A. C. Hopper Esq.

MS. A. 9. 2. 1. 1. 1.

The Hon. the Commrs. Randolph & Egle

Secy. of State for the United States

Philadelphia

Per letter for

ms.

Apr 23. 1874

Barbados June 12<sup>th</sup> 1794.

To the Hon.<sup>ble</sup> Admiral Randolph Esq.  
Secy. of State for the United States.

Sir.

Inclosed are the copies of the records of the Court of Vice Admiralty in this Island in eight cases of American vessels libelled & condemned in that court together with the copy of the decree in one can of acquittals. I procured motions to be made in the former for leave to enter appeals, which was given on condition of putting in security in the sum of two thousand pounds in each can to prosecute & pay the costs if the decrees here should be confirmed in England. The Judge however refused to order security to be given by the captors in the nature of a Replevin bond for the restoration of the property or value in case of reversal. I apprehended this to be a necessary ingredient of an appeal & unavoidably included in the very idea of it, added to which the Prize Act itself made it the essential consequence as it is the principal fruit of an appeal dependent however on the same condition of reversal. The only

objection to ordering this security on the part of the Captors which appears to be a duty arising from the grant of appeal which the Judge cannot modify or legally refuse to perform was that after the decree had been executed & the property dispersed, it was impossible to oblige all those who were at the moment of granting an appeal in the enjoyment of it to give security for restitution either in specie or value. And the law does not require impossibilities. This objection appeared to me to arise from a misapprehension of the subject & also to be deficient in point of accuracy. In the first place this security should be given by the captors themselves who would then be responsible for the property or its value which needs not to be placed into other hands. The Captors know their situation, the extent of the advantage which the decree in the lower court gives them & also what the law allows on the subject of appeal. They therefore calculate accordingly. Besides this if the Captors part with the property in specie they are supposed to receive its value in another form & therefore ought to respond in case of reversal. Again if it were necessary to

make the order for security on the part of the captors in <sup>5</sup>  
the way which this objection supposes, a compliance  
with it would not be impossible but only inconvenient,  
which does not bring it within the maxim of law alluded  
to. To cure <sup>or avoid</sup> an inconvenience attending a rule of law  
the right of a party who claims the benefit of it certainly  
cannot be dispensed with. To say that the captured  
would have his remedy by action in case of reversal / which  
if not unfounded in principle is irregular in practice /  
is an inefficient defence for the refusal of the legal  
formal means of restitution in cases of appeal. The  
existence of one remedy is not a ground for deciding  
against one if not more at least equally proper.  
Notwithstanding this deficiency however in the grant  
of appeal so injurious to the captured who while  
they were obliged to furnish enormous security for  
their costs, were made dependent on the personal & re-  
sponsible responsibility of an individual, I determined to  
do all in my power to comply with this order on the  
captured to find <sup>sufficient</sup> two sureties in two thousand pounds  
upwards or six thousand dollars. In most cases the subject  
of the dispute was not of great value. — I endeavoured  
therefore to obtain the consent of respectable men to become  
sureties shewing them the instrument of writing furnished

Higginson N. C. June 12. 9A  
recd. July 16

by the Secy of the Treasury which authorized  
me to give bonds of indemnity &c But I was unable  
to procure them I enclose an application to one  
gentleman which I made in writing & his answer to it.  
When I found that I could not obtain the security requ-  
ired, it became proper & necessary to take out of the  
office copies of this part of the record also (viz) the  
petition for the appeals & the order taken thereon  
in order to show precisely what had been done in con-  
formity to my instructions. Then copied the Register of  
the Hon. Secy & said to give me till he had consulted  
the Judge who on being consulted directed that officer  
(as the latter informed me the next day) not to deliver  
the copies demanded unless the subject matter of the  
order was complied with, namely, the security before  
stated given on condition to prosecute. I informed  
him that the security could not be obtained, but  
that a copy of the record was required which I thought  
might or might be demanded on tender of the legal fees of  
officer & as it would not appear that the security had  
been given no improper use could be made of it.  
That part of the record of each case was denied me.

Yours

You will observe by the copy of the record in the  
case of the Dispatch that the Admiral (Sir John Lewis)  
had been applied to for his opinion as to the precise  
time when the blockade of the French Islands could  
be said to commence. His letter in answer to that  
application makes part of the record in which he gives  
his opinion that the <sup>several</sup> French West India Islands  
are to be considered as under blockade from the arrival  
of the Armament at Barbadoes which was on the sixth  
of January & therefore that all neutral vessels trading  
with those Islands since that time are certainly within  
the order of the sixth of November. The Armament  
arrived here only two days before the <sup>date of the</sup> rendering of  
the eighth of July. It is notorious that the decree of  
condemnation <sup>was</sup> suspended by the Judge till this letter  
had been received in order that it might be given  
in evidence. You will observe a deposition was  
taken to prove the handwriting of the Admiral.  
This Deponent was the agent for prize who had  
made the application to the Admiral for his opi-  
nion. Two plain & strong objections occur against  
this proceeding. In the first place the letter could  
not be legally admitted in evidence & in the second  
the contents were irrelevant & insufficient.  
As to the first waving the impropriety of receiving testimony

from one who was deeply interested in the point itself,  
if the Admiral in person could not legally be heard by  
the Court without oath so neither can his letter be read  
in evidence against third persons however well substantiated  
his hands writing might be. To prove the hands writing  
therefore, as to respects that object was totally unimportant.  
As to the second, the contents of the letter were not only  
mere matter of opinion; but that the arrival of an armed  
fleet at Barbadoes should constitute an investment of  
all the French West India Islands is in itself indefensible  
should not operate upon us actual or equitable notice that  
they considered those Islands in a state of blockade.  
The rule contained in the third instruction of the eighth  
of June 1793 on the subject of notice to neutrals must be  
equally implied in all such cases. The expression of  
in that case did not make it the law but the law  
(being so) made the expression of its consequence. The  
principles of national justice demand that it  
should be so. You will perceive also enclosed the  
copy of the decree of the Convention, in which the  
captured are ordered to pay all costs & charges, an order  
too grossly violating the plain principles of justice  
to need a comment. In this case the property had

7  
sold without any affidavit made of its feasibility,  
an official Preliminary, as sales in such cases before  
trial had, are supposed to arise from necessity alone,  
which should therefore appear in legal evidence —  
Further the Inventories of the cargo & not the acts  
of sales are to be found in any public office; the  
private books of the Vendor Master at the latter  
point cannot be resorted to —

Two days ago a vessel arrived here from Guadaloupe &  
Martinique with the following intelligence — That  
two French ships of the line, four frigates & two transports  
were at anchor to windward of Point à l'Ancre — That three  
public officers of every description had fled from that  
place to Baptiste from which this vessel sailed — That  
the French ignorants that the Islands had been taken  
sent a boat on shore with ten men who were all im-  
mediately made prisoners — That they then landed 600  
men who attacked the fort but were repulsed — That  
they then landed 1500 men who soon carried the fort  
& put every man to the sword as the English had done  
before them — That at Dominica there were 1500 negroes  
in the woods in a state of rebellion — That it was feared  
the foregoing news would add to their numbers & their  
fury (Dominica being the nearest Island to Guadaloupe)  
That the vessels in the harbour of Dominica had all  
set sail for Martinique where at this moment rages  
plunder & plague — That Commodore Thompson had

7 1/2

sailed from Martinique with the whole ship I was in  
 had left (the greater part having been destroyed by sickness)  
 making up two ships of the line, one frigate & two sloops  
 of war, to attack the French, while an express was sent  
 to St. Christopher from which the Admiral was about  
 sailing for England to give him notice in order that  
 he might join Commodore Thompson. Thus stands  
 things at present, and it is a state of things very  
 unfavourable to the prosecution of the business of my  
 mission. It is much to be feared that nothing will  
 be practicable at Guadeloupe, Dominica & perhaps  
 Martinique to which I shall proceed tomorrow.

I shall write you from Martinique — My letter  
 for Mr. Pinckney cannot go till a conveyance shall arrive  
 here which has been long expected — No opportunity will  
 occur before it — You will easily perceive that convey-  
 ances to England are rare & those precarious —

I have the honor to be

Sirs Your most obedt  
 Servt John Lubbock

J. C. Higginson

P.S. This moment has arrived from Guadaloupe <sup>at 10 7 1/2</sup> an Express  
to the Governor of this Island who brings that the French  
have taken Pointe à Pitre & pushing for Bapteme - That the French  
ships were within the harbour - That a quondam General officer  
memory, who was lately appointed by his Majesty, victualling agent  
in the West India Islands, was at Pointe à Pitre acting in that capacity  
from a reluctance to leave it, fell into the hands of the French - That  
the British Admiral & his Squadron was outside of the French ships -  
But however probable it may be that the French will ultimately for-  
get to let it be remembered that one moment is sufficient to render  
the last justice to Mr. Arnold

Copy of letter to Mr. Rutledge Esq.

8

Sir.

In the execution of the business of my mission I have procured a motion to be made in the Court of Admiralty in this Island for leave to enter appeals from the sentences of condemnation rendered against eight American vessels which had been libelled in the said Court as lawful prizes. The Judge saw fit to order that the appeals be allowed on security being filed in each case in the sum of two thousand pounds on condition to prosecute the appeals, pay costs &c in case of failure on the trial of such appeals. This security must be given by two gentlemen of respectability & property in the Island. I had yesterday the honor of shewing you a document signed by Alexander Hamilton Esq. Secy of the Treasury created with the seal of the Treasury of the United States by which I am authorized in behalf of the Treasury of the United States to enter into such engagements as might be necessary to indemnify any person or persons who should become surety or sureties on appeal against all costs & damages arising therefrom to which instrument was annexed a certificate or attestation signed by George Hammond Esq. the British Minister Plenipotentiary to the United States created with his seal of arms. I therefore take the liberty of requesting you to become one of the sureties on appeals according to the

order of the ~~Indep<sup>t</sup> State~~ stated ~~that~~ the ~~favor~~ of your  
answer in writing

Sancti

With great respects

Yours

Yours, &c.

H. C. Higgins

Barbados June 5<sup>th</sup> 1794.

Mr. Pettejohn Esq.

Copy of the answer to the preceding letter — 9  
Extract.

Friday 6<sup>th</sup> June 1794

Sir,

I have received your letter of yesterday requesting me to become one of the securities in the Court of Admiralty on the appeals you have obtained on eight American vessels condemned in that Court & I have seen the credentials or documents you have from the Secretary of the Treasury of the United States & from the British Minister residing in the States — I have always made it a rule to myself not to be responsible for measures which I am not permitted to direct, whereby my bonds may be forfeited without the means of prevention by the neglect of those who have the direction of the appeal & great delays may ensue, whilst such a large security is hanging over me that may be prejudicial to my credit as a man in Trade — For these reasons I am under the necessity of declining the security ship —

I am very respectfully  
Sir your most ob<sup>d</sup> & H<sup>ble</sup> Serv<sup>t</sup>

Bridgetown

(signed)

John Rutledge —

W<sup>m</sup> Entick & Co. Printers & Co.



can particularly the Captain sent his boat on shore to know if he could have liberty to trade here, his boat was detained & soon dispatched to bring him in for condemnation as prize. 3. The Captains Crews of the American vessels were taken out of them & put on board a prison ship - that nobody else were put on board to preserve them, in consequence of which more than thirty sail drifted out to sea & perished - that the remainder were sold before trial not because they would perish unless they were sold, but because they would perish unless taken care of. Property in that predicament should consist could not be sold, the form of its existence could not be changed unless it were absolutely necessary to preserve the value, or in other words where the property could not be preserved in its present form with ordinary care & diligence. 4. That American seamen were pressed & forced on board the English ships of war after they were known to be such - particularly a seaman belonging to a vessel commanded by Captain Story of New York who is now there was taken from his lodgings while recovering from the destructive fever of this Island & then died on board a ship of war when Capt Story informed me he soon after died. 5.<sup>th</sup> That the Judge of Admiralty who condemned was appointed solely by the Admiralty after the capture of the Islands — 1. It may well

17  
be doubted. I should think whether the Admiral  
was entitled with such a power &c. be that as it  
may, it is an obvious violation of natural justice  
that one party in a dispute should have the ap-  
pointment of the Judge who is to decide. If this  
be true in the general I apprehend it is more pecu-  
liarly so in Admiralty cases of prize when the  
captors are compelled to justify an antecedent  
act of violence

I have endeavoured to ascertain all facts truly  
as far forth as all acceptable means were com-  
petent to that end it has been done. The  
confused state of things here renders the prosecution  
of my business tedious & embarrassing if not hazardous.

On the subject of procuring appeals so essential a  
feature in my mission, that it may appear that we  
have done all in our power to obtain legal & judi-  
cial redress) I have to observe that there is  
neither Judge nor Proctor in the place, which  
makes it impossible to move in it. I regret  
exceedingly that a prompt & perfect execution  
of the business of my mission is put out of my  
power by the irregularity of the proceedings & the  
confusion of the scene

Sir John Lewis

told a Captain Poole of Newbury Port at the time  
of his being captured that it was the meaning of his  
Majesty to pay for all property taken & condemned  
but that he was determined not to suffer the French  
to be supplied by neutrals — General Prescott  
the Governor of this Island has repeatedly told me  
in conversation that he knew it was the intention  
of the British Court to make restitution — I  
have heard indeed no other opinion from any one  
It is clear that the construction put upon the  
orders of Nov. 6<sup>th</sup> 93 made adjudication synonymous  
with condemnation. — No vessel has sailed  
from the Islands for England since my arrival  
& the ships at Barbadoes & this place have been  
waiting for there six weeks for a convoy & it is prob-  
able from appearances at Guadaloupe that they  
will wait as much longer — Upon the whole I  
have no doubt but that the earliest supply will  
be from America & therefore I enclose you the  
original copies — We hear by an arrival  
just from England that Denmark had sent out  
a large number of ships with provisions to France  
under convoy of a considerable naval force with  
orders to ~~resist~~<sup>repel</sup> hostile force in case of seizure & that

Had sailed from  
 an Admiral in the Downer in order to intercept  
 them. Things have remained stationary at  
 Guadaloupe these some days though it is strongly  
 to be presumed that the French will fail from in-  
 feriority of force.

Since writing the above the follow-  
 ing circumstances have occurred. I had  
 directed the Register of the Admiralty at Barbadoes  
 to make out the copies of the eight cases of American  
 vessels condemned which I found in that court &  
 to put the seal of the Court & general attestation  
 to them collectively, instead of doing which I found  
 that he had affixed the seal of office to every particu-  
 lar case (the charge for every seal being five pounds).  
 Though this accumulated expense however took them  
 partly because they were few in number & partly  
 because I doubted whether it had been done by  
 design or accident. When I arrived here therefore  
 I found the condemnations numerous & of course per-  
 ceived the enormous expense of putting the seals  
 to every particular case. I strongly revised this  
 preliminary direction. My reasons for doing

this (for as my instructions express nothing on this point I was governed by discretion) were these —

1. Because as the records were for the use & benefit of the U. S. as a body of evidence going to the question of restitution I thought the rules which governed the production of papers & records in Courts of common law (for instance on a question of procedure where the seal should be affixed to each particular case, as also recovery must be in each particular case) did not apply & that the authenticity of one seal & a general attestation would be sufficient for the whole in each Island — Cases of appeal would be different, as each appeal would be separate & stand on its own bottom —

2. Because if restitution was not made the U. S. would sustain a large additional loss by the other mode & if restitution was made as the compensation would extend to all the means of obtaining it, in which case this expense would ultimately be defrayed by the British Court, & became our Government not to afford any just grounds of censure for multiplying it —

Other circumstances strongly fortified these reasons particularly the consideration (which I shall presently explain) that the funds I was proposed

19

or could become dissipated of from my authority  
to draw would be altogether incompetent to the  
subject on such a calculation

The Clerk in the office (for the Register of the Domi-  
nion was absent as he had long been at Guadaloupe)  
accordingly proceeded in the copies I had finished  
them; but when I called this morning he informed  
me that he had learned he had a right to  
make as much out of the business as he could &  
therefore must affix the seal of the Court to each  
can separately for which he should charge

I made such remarks as occurred to me to be  
proper & among other reasons mentioned the  
foregoing — He said he should not deliver them  
on any other conditions, that he had taken advice  
of the office must not be depaused

With one seal & attestation to the whole, the  
costs would be in this Island between nine hundred  
some thousand Dollars — with a seal & attestation  
to every particular can the charge would be  
thirty two Dollars for each can making in all  
seventeen hundred & ninety two Dollars

You will easily perceive that such circumstances

are embarrassing to me. In the four Islands of  
Dominica, Antigua, Montserrat & St Christopher  
about two hundred have been condemned, which  
at the preceding rate would exceed my pecuniary  
limits — From the circumstance of being limited  
to five thousand Dollars in drawing I infer a strong  
argument for waiving this expense, at all events  
this proportion of expense cannot be sustained by  
me as I cannot transcend those limits —

I received a Warrant for five thousand Dollars  
from authority to draw for five thousand more.  
Out of this I was directed to pay to the Captain  
on demand so much as at the time of demand  
might be due on account of the hire of the vessel  
(which now amounts to about one thousand Dollars)  
my current expenses must of course be paid, the  
balance therefore would fall very far short of the  
sum necessary to meet such a prodigious charge  
through all the Islands — Upon the whole I am  
thoroughly persuaded of the propriety & legitimacy of  
resisting so improper an imposition —

The vessel that takes this is now under way. I shall have one more conversation on this subject & if there additional charges be not given up I shall take the earliest opportunity to communicate it either by letter or in person. As I have received & hitherto patiently borne the weight of treatment as done the American named character in general here, I am satisfied from the best evidence that the thing denotes of that this particular conduct in the Admiralty office arose from the embargo's being opposed to you which never was brought by an American vessel yesterday. The Islands had just begun to feel the effects of that measure when it was dropped. It may be wrong & often is to adopt a measure which when adopted it would be now so not to pursue. However it does not become me to speak much upon this subject. I can only say as a matter of opinion arising from my observations in the Islands that I believe the Americans will fare the worse both at least in those parts of the British dominions.

I am Sir

With profound respects  
Yr Obedt Servt  
A. C. Higginson

Sir,

Since I closed the letter of which the foregoing is a duplicate, American seamen have been hipped out of American vessels. My lodgings have been the refuge of one ash off seaman who was followed by one of the gang with a sword in his hand into the very chamber where I was writing. This man was released when they perceived to what unparliamentary lengths they had gone. I immediately wrote to the Governor shewing to him that however difficult it might be in general from the sameness of language I drop to distinguish American from British seamen yet when seamen are found in the moral condition of sailors on board American vessels there was so strong a presumption arising from it as 'prima facie' evidence that they were American seamen & it is as called for strong & satisfactory circumstances on their part to justify entering on board & laying violent hands on them. That if when American seamen were on board a British vessel it required strong proof to resist the presumption arising from that situation the rule must be equally reasonable when it applied in our favour. That as the business of impressing seamen (however necessary & justifiable in times of public emergency) was obnoxious to general rights in its mildest form while it afforded

21

a pretext for the exercise of bad passions, should be  
so committed as to be the least liable to abuse. That  
however reasonable it might be that Commanders  
Governors should not be accountable for the mode  
of exercising a delegated authority, yet if the forms  
of naval responsibility were such as that these things  
must be permitted with impunity on their parts  
it would not be expected that they would long be  
borne with patience on ours. Before this letter  
however gets to land the men were released.

This is a nice subject & involves no little dif-  
ficulty well to regulate it. To fix a rule of evidence  
on a question to which other nations are always  
parties requires general consent, as it could not  
be reasonable that the rule of one nation should  
bind those countries who have an equal interest  
yet no voice in forming it. Perhaps (apart from  
the old explicit principles of native & alienable  
allegiance it might be practicable to form a good  
rule. Probably the system of notarial evidence  
which has universal authenticity & competency on  
most commercial questions at common law would  
afford the best ground to go upon. The rules  
of evidence to this point established by the lords

of the Admiralty in England as they require I suppose  
on the part of a Captain a certainty & precision of  
knowledge which cannot be reasonably expected, seem  
themselves to be unreasonable — To discuss these  
questions however makes no part of my business. I  
have been drawn into them from the nature of the  
foregoing facts —

When first I had called the last time for the copies  
of this record as I at first engaged them, but the Clerk  
of the Register refused to deliver them unless I would  
pay as much as if the seal of the Office had been  
affixed to every one separately. This refusal was  
a new matter of money, the officer supposing that  
I should give any sum for them rather than leave  
them — The sum demanded was seventeen hundred  
Ninety two dollars (viz / 56 multiplied by four dollars  
or thirty two dollars) while that really due for  
them in the mode they were spoken for & required  
would be nine hundred & odd — In refusing them  
under this imposition I am governed by the dictates  
of my own judgment / having unfortunately no other  
to consult / by the necessity in the foregoing letter  
stated & by a general regard for my Country —

It cannot indeed be wondered at that these  
particularly the captured Islands should be the  
work of new money makers, both as it respects  
those in & those out of office. The effects which  
the expiration of the embargo & the failure of the  
attempt to raise a force in the U.S. have had  
upon most dispositions here, particularly through  
the grades of official authority is wonderful.  
That the embargo was taken off at the request  
of the French minister on the one hand & that  
the English have a majority of friends because  
the propositions in Congress to raise a body of  
troops raised on the other (though idle & inconsistent  
I think in my apprehension) have a serious  
influence on the treatment which all Americans receive in the  
Islands, whatever it may have on national  
feeling in England.  
I feel it in common with all Americans.  
It is certain that there are many American men  
imprisoned & detained on board the British fleet  
now at the attack on Guadaloupe. When I leave  
this I will endeavour to get them released, but

The character of his John Lewis does not promise  
much fruit is universally detested by his own  
countrymen — If I should meet with no further  
impediment in the regular execution of my duty  
in the other Islands I shall proceed, if I shall  
immediately return — Inclosed is a copy of a letter  
which I received from a Mr. Blakely an American  
Sea Merchant in this place who attended with me  
at the office of the Register in Admiralty. His affec-  
tionate remembrance promises to be taken —

Yr. Lth. Servt.  
A. C. Byrneson

Wm. E. Randolph Esq  
Secy of State for U. S. —

Copy of a note to Jewish Blahely Esq.

23

St. Pierre, July 1<sup>st</sup> 1794.

Sir,

I took the liberty to request your attendance with me this morning at the office of the Register in Admiralty & your particular attention to what might pass between the Clerk of that office & myself in case that might procure you affidavit to it; but as it is not possible to procure that to be taken, I must beg you to take the trouble of stating to me particularly what passed on the occasion which must be recent in your memory, as our help here being since elapsed

I am

Yr. obed<sup>t</sup> Servant

Jewish Blahely Esq.

A. B. Higinson

St. Pierre

Copy of the Answer

Sir: In answer to your note of this morn<sup>g</sup>. I have to inform you, the following are the circumstances which occurred at the office of the Register of the Admiralty — You asked the Gent. who kept the office, if the copies you had engaged were all made out, to which he replied they were. You then asked

him if he was ready to affix the seal & deliver them  
to which he replied he could not deliver them but in  
a seal to each particular case, at the same time  
he asked you, if he delivered you the whole with  
but one seal in what way you intended paying  
for them - You then observed to him that you  
was then ready to receive the copies in the form he  
had been applied for & to pay for them the legal  
fee of office. but on the additional charge of affix-  
ing a seal to each particular case would be an  
unjust accumulation of expense to the State that  
should restitution at he made or should compensate  
not be made as this expense might increase the  
demands, might be cause of recrimination from  
plaintiffs with the Courts of Great Britain, you could  
not consent to take them in that way -  
You then observed as he had no objections to deliver  
them with but one seal, provided you would pay as  
for the whole, which of course respected his endorsement  
of his duty, you must insist on them as engaged  
as the officer is in duty bound to deliver them -  
On which he peremptorily refused delivering them  
to the above statements I am ready to testify & am

Tr. Yr. Obed. Ser.

(signed) Josiah Blakely -

At Paris 6 July. 1794.

N. Higginson Esq.

St. Pierre July 25. 1794.

Sir,

The names of the two prisoners mentioned in the last instance in the inclosed letter are John Owens of Boston & Lane. belonging to Montserrat. For information on the subjects of the within note relates to this Island, particularly with respect to impressing in Hayti to refer you to Robert B. Meane who takes this — Just now while the Molly is under way has arrived an English 40 gun ship from Guadaloupe with which I was joined. A severe battle was fought at Port Peter on Monday last June 20<sup>th</sup>. The English were throwing up works on an eminence which commands 'St. Jean de Parik' which is with the French. They had almost half completed it when the French seeing this for the purpose of breaking up their works — The battle was warm but the French though inferior in numbers drove the English with prodigious fury from the ground, destroyed their works & took some few mortars. The English lost 400 killed & 100 wounded which are now landing under my eye — The French lost upwards of 200 — They used the bayonets principally —

I am Sir with profound respects

Yrs. L<sup>th</sup> L<sup>th</sup>  
A. C. Hignison

For the Commandant of the 8<sup>th</sup> Regt.  
— Secy of State for the I.

The Hon. Edmund Randolph Esquire

Secy of State for the United States of America

Philadelphia.

Aug 26  
N.C. June 23 94  
recd. July 26

St. Pierre Martinique 24 June 94.

To the Honble Command Randolph Esq. Secretary of State  
for the United States of America

Sir. I send you herewith copies of the record in fifty six cases of American vessels condemned in the Court of Vice Admiralty in this Island including those captured at St Lucia. Very peculiar circumstances have attended some of them of which the several claims filed & depositions, annexed will inform you. The following grounds of complaint I have found in this Island. To substantiate the facts involved in most of them I am under the necessity of referring you to the depositions above mentioned & to the American captains themselves (a list of names of whom is inclosed) partly because those captains who best know them are now in the United States & partly because I am procuring affidavits to be taken in this Island which is now under a despotic & violent military government.

1. Some of the vessels (of which the paper will show) were in this harbor before the port was besieged & detained till it was captured by an embargo.

2. Some of them were captured coming into St Pierre  
after it had been taken while the english flag  
was flying, the pretext for which was that  
Fort Bourbon had not yet surrendered. One  
case particularly occurred in which the captain took  
his boat on shore to know of the Commander in chief  
if he was at liberty to trade here, his boat was  
detained & a force dispatched to seize & bring in  
his vessel for condemnation as prize.

3. The Captains & crews of the american vessels before they  
were libelled were taken out of them & put on board  
a prison ship - No other persons were placed aboard  
to preserve them in consequence of which more  
than thirty sailed drifted out to sea & perished.  
The remainder were sold before trial not because  
they would perish unless they were sold, but because  
they would perish unless they were taken care of.  
Property in that predicament, I conceive cannot be  
sold, the form of its existence cannot be changed  
unless it be absolutely necessary to preserve the  
value or in other words, unless the property cannot  
be preserved in its present form with ordinary  
care & diligence. 4. That American seamen  
were pressed & forced on board the english ships &  
were detained after they were known to be such  
a seaman belonging to a vessel commanded by

11  
a Captain Story of New York who is now there was  
taken from his lodgings recovering from the distress  
two Frenchmen's Island & landed on board a ship  
offshore where it is said he soon died. The last  
evening two American seamen were taken in my  
sight from a boat belonging to an American vessel  
my servant man was seized about the same  
time standing at my door. I told the officer  
that the two first were American seamen who  
ought to be presumed from being found in a boat  
known to belong to an American vessel then  
in harbour & that the last was my servant.  
They were however forced away & received many  
shocks with the cutlasses of the officer himself  
their clothes were torn from their bodies, my  
servant received two very severe strokes from  
the head in consequence of which he has been  
ill & is now deaf. I stated the facts to the  
Governor in a letter in consequence of which they  
have all been set at liberty except one seaman  
who is still detained, his name is Lewis  
Archer of Petersburg in the State of Virginia.  
5th That the Judge of Vice Admiralty who decides  
cases was appointed solely by the Admiral on  
the capture of the Islands - 1. I think that it  
might well be doubted whether he was vested  
with that power - 2. Or that as the navy

It is an obvious violation of natural justice that  
one party in a dispute should have the ap-  
pointment of the Judge who is to decide it.  
If this be true in the general it would seem to  
be peculiarly so in the morally cases of prize  
where the Captors are compelled to justify an  
antecedent act of violence. 6. That neither  
the inventories nor the sales are deposited in any  
place for inspection or copy, but from the best  
information worth of the vessels & cargoes were sold  
for below their value - It must be deemed  
however that their real value had much de-  
creased from taking out all the American treasure & 2  
from gross subsequent neglect.

I have endeavoured to ascertain defects, truly &  
set forth as all acceptable means were com-  
mitted to that end it has been done. The con-  
fessed state of things here renders the promotion of  
any business tedious & embarrassing if not impossible.  
On the subject of procuring appeals I have to  
assure that there is neither Judge nor Court  
in the place, which makes it impossible to  
move in it. I regret exceedingly that a prompt  
& perfect execution of the business of my mission  
is put out of my power by the irregularity of

the proceedings & the confusion of the scene  
Sir John Lewis told a Captain <sup>Wm. Lewis</sup> Dorr at the time  
of his being captured that it was the meaning of  
his Majesty to pay for all the property taken  
from Denmark but that he was determined not  
to suffer the French to be supplied by restraints.  
General Prescott the Governor of this Island has  
repeatedly told me that he knew it to be the  
intention of the British Court to make restitu-  
tion - I have heard no other opinion on the  
subject from anyone -

It is clear that the construction put upon the  
orders of Nov. 6<sup>th</sup> made 'acquiescence' synonymous  
with 'condemnation' -

A vessel has sailed from the Islands for England  
soon my arrival. The ships at Barbados &  
this place have been waiting six weeks for conveyance  
It is probable from appearances at Guadaloupe  
that they will wait as much longer. For these  
reasons I have been induced to think that the  
earliest oppy will be from America & therefore  
I enclose the original copies to you -

We hear by an arrival just from England  
that Denmark had sent a large number of

ships with provisions to France under convoy  
of a considerable naval force with orders to  
upel you by force in case of seizure & that  
an Admiral had gone from the Downs in order  
to intercept them

---

Ships have remained stationary at Guadeloupe  
these some days, though it is strongly to be pre-  
sumed the French will fail from inferiority  
of force

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Since writing the above the following  
circumstances have occurred

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I had directed the Register in Admiralty at Barbours  
to make out the copies of the eight cases of con-  
demnation which I found in that Court & to affix  
the seal of the Court & a general attestation to  
them collectively instead of doing which I found  
he had affixed the seal of the Court to every case  
the charge for every seal being five pounds. With  
this accumulated expense however I took them  
partly because they were few in number & partly  
because I doubted whether it had been done by  
design or mistake. When I arrived here therefore  
I found the condemnations numerous & of course

perceived the enormous expense of putting the  
scale to every particular case I thought I prepared  
this preliminary direction. My reasons for doing  
this were these, for as any instructions respecting them  
on the point has governed by discretion —

1. Because as the records were for the use & benefit  
of the U. S. as a body of evidence going to the  
question of restitution I thought the rules which  
governed the production of papers & records in a  
common law Court (for instance in a question of re-  
covery where the scale should be applied to every  
particular case, as also recovery must be for every  
particular case) did not apply & that the au-  
thority of a mere general citation would  
be sufficient for the whole in each Island —
2. Because if restitution was not made the  
U. S. would sustain a large additional loss by  
the other mode of restitution was made as the  
compensation would go to all the necessary  
means of obtaining it, in which case this expense  
would ultimately be defrayed by the British  
Court, it became our government not to afford  
any just ground of censure for accumulating it.  
Other circumstances strongly fortified these reasons,  
particularly the consideration (which I shall

presently explain) that the funds I was supposed  
of or could become supposed of from any authority  
to do so would have been altogether incompetent  
to the object on such a calculation — The Clerk in  
the office (for the Register of the Admiralty was absent  
himself at Guadaloupe) accordingly proceeded in the  
papers & has finished them, but when I called this morning  
for them, he informed me that he had learned he  
had a right to make as much out of the business  
as he could & therefore must affix the seal of the Court  
to each case for which he should charge. I made  
such remarks to him as occurred to me to be put in  
among other mentioned the foregoing reasons —  
He said he should <sup>not</sup> deliver them on any other condition,  
that he had taken advice & the office must not be  
deprived — With a seal & attestation to the  
whole, the costs would be between nine hundred  
four thousand dollars with a seal & attestation to  
each case separately the charge would be thirty-two  
dollars <sup>or more</sup> making together one thousand seven hundred  
ninety-two — You will easily perceive that  
such circumstances are embarrassing to me —

In the Islands of Montserrat, Dominica, St. Kitts &  
Antigua alone near two hundred have been in

14  
denied which at the same rate would exceed my  
pecuniary limits. From the circumstance of being lim-  
ited in drawing to five thousand dollars I prefer a strong  
argument for waiving this expense, at all events  
this proportion of expense cannot be sustained as  
those limits cannot be ~~maintained~~ by me —  
I received a warrant for five thousand dollars &  
an authority to draw for five thousand more. I was  
directed to pay to the Captains a demand so much  
as might be due on account of the hire of the  
vessel at the time (which now amounts to about  
one thousand dollars) — my current expenses must  
necessarily be deducted, the balance therefor  
would fall very far short of the sum necessary to  
meet such prodigious charge. Upon the whole  
I am strongly persuaded of the propriety & eligibility  
of pressing so improper an imposition. The expense  
that takes this is now under way — I shall have  
an opportunity upon this subject & if there  
additional charges be not given up I shall take  
the earliest opportunity to communicate, either by  
letter or in person — I have received the letter  
patiently born the words of treatment as does  
the American name & character in general  
here. I am satisfied from the best evidence that

the thing admits of that this particular conduct  
in the Admiralty office arose from the embargo  
being off with you whilst news was brought here  
by an American vessel yesterday. The Islands be-  
gins to feel the effects of that measure  
when it was dropped. They are very often to  
adopt a measure which when adopted it would be  
an error not to pursue. However it does not become  
me to speak much on this subject. I can only  
say as a matter of opinion arising from my own  
observation in the Islands that I believe the  
Americans will suffer the more for its attempt  
in those parts of the British dominions.

I have the honor to be Sir

With very great respects

Yr most obedt Servt

J. C. Hippinson

The Constitution is now levying taxes of twenty  
 millions by order of the Admiral - another  
 in Guadeloupe of forty three millions -

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SAMUEL BAYARD

OCTOBER 12, 1794

GREAT BRITAIN

CONFERENCE ON THE LIMITATION OF ARMAMENT

SECRETARIAT GENERAL

Samuel Bayard.  
1794 - 1798.

See

Volume in Duplicate series  
from July 16 1794  
to Oct 25 1797.

"Letters of Samuel Bayard"

---

Volume / G. D. has volume)  
"Report of Samuel Bayard"

Am. Agent. Charles D. Webb -  
at Louisville.

Sunday 9. Nov. 1876

Dear Sir -

Without a moment's delay  
on my arrival at this place I hastened  
on board the *Adriana*, in quest of the packet  
addressed to Mr. Jay. I found 2 bundles. For  
considerable bulk the one addressed to Mr. Jay  
the other to Mr. Pinkney. I was directed  
to myself which I opened, but found nothing  
in either of them ~~was~~ for Mr. Jay.

The ship as yet is in great confusion -  
the papers are disordered, but the Captain has  
no doubt but that whatever has been put  
on board the pilot boat has been accounted  
safely in the *Adriana*. The sailors of the  
pilot boat at present are on shore - as soon  
as they return the mate is to make enquiry  
& inform me respecting the packet. In hopes  
of this information, I delay closing this letter  
for an hour — 4 o'clock.

The pilot has just come on shore & has  
assured me that whatever has been put on board

the pilot boat, has been safely delivered  
on board of the ship - the Captain has  
promised me to make an examination  
between this plan & the others. I will  
write you again from the Cape.

In great haste

I am respectfully

S. B.

(Samuel Bayard)

Am. Agent to Comm.  
at London, Eng.

Dear Sir.

Louisa 13. June 1798.

Duplicate dated 12 June  
& recorded ~~proth~~ that

In my last of the 16. May. I mentioned

to you that I would write you on the subject of  
the claims & appeals by the Rebecca. Capt. Bazing  
direct for Philad<sup>a</sup>. This vessel will leave this place  
some time next week. By her I will do myself the  
honor of writing you, & of sending the process that I  
have obtained in all the cases in which papers have  
lately come to my hands.

The object of the present letter is to inform you  
as fully as I am able in regard to the nature &  
operation of those late orders that have been issued  
by the King's Council for bringing all neutral  
vessels ~~into~~ laden with provisions. Intended for France  
into British ports. In my letter to Mr Fitzsimmons  
by the Adriana, which I left open for your perusal  
I mentioned the circumstance of one American  
vessel having at that time been brought in.  
Since which time they have multiplied fast.

About 10. or 12. have already been sent & every day  
is adding to the number. As soon as I can procure an  
accurate list of them, I will do myself the honor of for-  
warding it to you by the first conveyance. I need  
now to see our Captains as early as possible &  
to furnish them with every assistance & information  
in my power. Many of them are highly exasperated  
at the conduct they experience, & in many cases, with-  
out reason. Fearing however lest statements from  
some of them might be sent out to the U. S. by the  
present opportunity, surcharged with the coloring of  
resentment, flowing from a feeling of unprovoked injury  
I hasten to give you the earliest & most authentic in-  
formation on the subject that I can collect.

The orders under authority of which these vessels are  
brought in have not yet been made public. They have  
neither appeared in the gazette nor been sent to the  
Admiralty. of course no letters of marque or private  
ships of war are proposed of them. We can only then  
fore judge of their extent, from the manner of their use.

The Industry from Philad<sup>a</sup> - the Light-House from  
 Salem. bound to France with provisions - also the  
 American vessel from Altona to Lisbon have been  
 sent in - Capt. Fitzpatrick in the Adiana. from Bour-  
 deaux to Hamburg with Brandy, wine &c has been  
 sent in under pretence of her cargo being French  
 property. In short I understand the plan is to send  
 in all neutral vessels carrying provisions, from what  
 ever port they may have cleared, & to whatever port  
 they may be bound, if there be any reason to suspect  
 their real destination to be for France. You will  
 hence perceive <sup>lie</sup> that the schemes of starving the French  
 into submission is not relinquished altho' every account  
 from this quarter proves them to be well provided with  
 every thing but grain. At the first port to which the  
 neutral vessels are brought the examinations of the captain  
 & crew are taken, & forwarded with the ship's papers to the  
 Court of Admiralty in this place. They are inspected by the  
 King's Proctor, & laid before the King's Advocate immediately.

If there appear no just cause for detaining the vessel she will be liberated without delay. The cargo in every case will be taken & paid for by Government. - they will allow only 10. %<sup>o</sup>. I am informed on the original invoice price. In most cases this will be a very inadequate compensation to the owner. - The cargo must be claimed in the Admiralty. ~~the same~~ as in cases of capture. Restored by consent or the order of the Judge. D. Nichol informs me that freight & demurrage & expenses will be allowed by Gov<sup>ts</sup>. - Mr Kings Proctor has assured me that an extraordinary degree of dispatch will be used in releasing our vessels & in making compensation for their cargoes. notwithstanding which I apprehend considerable delays from the quantity of business now before the Court of Admiralty. & the small portion of time allotted to the discharge of it -

Some of our Captains complain of being deprived of their hands by the English ships of war, English sailors put on board, to bring them into port. Our sailors may hence be exposed to various hardships in fighting, contrary to their wishes against their allies, while the American vessels are left destitute of hands as soon as they come into

5

harbour, the English seamen being liable to impress  
~~any~~ wherever they may be found, <sup>by</sup> English vessels  
of war. There is little probability of neutral  
property on the ocean being more secure this  
season, than at present - I have reason to believe  
that the Govt. of this country will be more  
vigilant than ever in preventing France from  
receiving supplies in Neutral bottoms -

The Danes & Swedes are providing for the security  
of their commerce, by increasing their naval arma-  
ments. Denmark it is said has laid a general embargo.

Our citizens will act prudently in trusting as little  
of their property as possible, on the ocean, bound to  
France. Perhaps even that which may be coming  
from France will be unsafe - but on this point  
nothing certain can be said till we hear more.

I have the honor to be with

the truest regard & respect -  
Dear your most obedt. servt.

The Secretary of State.

Samuel Jay



Free

The Honorable

Edmund A. Russell Esq.

Secretary of State for the  
U. States.

BOSTON

Wm. Weston

Philadelphia

received from  
Buckley & Co. dated 12

rec'd 29 Aug 1895

Bayard  
don't know

London 18 June 1795.

7

The last verbal instruction that

I received from Mr Jay previous to his departure from London, was "to inform you fully & precisely of every thing material, relative to the business under my charge". This has uniformly been my aim, hitherto & shall be my study in future.

Since I last had the honor of writing you by a vessel direct for Philadelphia I have received the copies of the affidavits of Sir John Jarvis, & of Mr Bailie his agent, made, as I apprehended for the purpose of postponing the hearing & decision of those cases of seizure & condemnation of American vessels at Martinique & St. Lucia by the sea & land forces under the command of Admiral Jarvis & the S. Grey, which I inclose. For the purpose of counteracting the effect of these I had a consultation with the Doct<sup>rs</sup> Nicholl & Lawrence.

who prepared a replication, a copy of which, I send  
at this time. I attended the Court of Admiralty to  
hear what would be said on laying this before the Court.  
It was pleased to hear the King's Proctor declare that  
he really was in daily expectation of the papers referred  
to in the affidavits of Sir J. Jarvis & Mr Baillie, & that  
on his part no delay that he could avoid would be  
given to the settlement of this business.

Among the papers put into my hands at the  
time of my leaving Philadelphia were two lists of names - the  
one of those American vessels seized & condemned at Nova  
Bisque - the other of those at St. Louis, in all of which I  
have received some papers & process has issued against  
Admiral Jarvis except in such as <sup>are</sup> mentioned in the  
inclosed list, (No 8). which are numbered as in the list  
put into my hands previous to my leaving Philadelphia.

It were well if we could find a clue by means  
of which we could trace out the owners of these vessels  
& cargoes - could not copies of the Ship's Registers & of the

of their cargoes with the value of the same he  
had at those custom houses of the U. S. where they last  
appeared previous to their seizure & condemnation -  
The said value will serve to effect their restitution  
if better cannot be had.

I hope our citizens will be  
expeditious in sending forward their proofs, by the  
earliest conveyances, as the Lords of Appeal begin  
to think of limiting the time of receiving appeals  
from the decrees of the Vice Admiralty Courts below.

I yesterday had some conversation with Sir W. Scott  
on the subject of this sentiment thrown out on Saturday  
last by the Master of the Rolls. - He supposed it to  
arise from a consideration of the hardships under which  
Captors must labour in being exposed to a reversal of  
decrees they have obtained in their favour in the  
Courts below after the lapse in consequence of appeals  
entered after the expiration of the time ~~limit~~ within  
which appeals ought to be entered according to act of Parliament  
& after the captors perhaps have distributed the proceeds

arising from the sale of the vessels they have taken.

I stated to Sir William, the various inconveniences  
under which ~~our~~ citizens labour, such as the difficulty  
of getting of copies of proceedings from  
the West Indies - the accidents to which they were  
liable in their passage to this country - the neglect  
or death of agents owners &c. He replied that he had  
no doubt but that care would be taken by the Lords  
to word their rule so as to operate no injury to  
persons under circumstances of peculiar hardship.

I <sup>had</sup> hoped that it would have been in my power  
by this opportunity to give you some information  
respecting the decision of the Court of Appeals on some  
American cases depending before them. This nearly all  
in circumstances, & precisely the same in principle, have  
been argued for three successive Saturdays, but will  
not be determined till Saturday next.

If no greater expedition be used in hearing & deciding  
the cases under my charge, I have no ground to expect  
greater

many years must elapse unavailing, before the  
 business will be finished. I hope there is no secret  
 cause for the late delay. I hope no political reason  
 exists for keeping ignorant of the measure of justice  
 we must expect. I have attended the Lords of Appeal  
 whenever I have learnt that an American case  
 was to be argued before them, & the duty I owe to  
 the Government & Citizens of the U. S. obliges me to  
 say that from what I have heard & observed of  
 late I have not the same confidence in their justice  
 & impartiality which on my first arrival here I was  
 led to entertain. The state of European affairs  
 & the energy of our own Government will determine, I  
 am persuaded here for the <sup>present</sup> claims of our citizens  
 will be reported by the Court of Appeals in England.  
 In two American cases argued since I have been  
 in London, their decisions have been conformable  
 to the Law of nations, tho' given with obvious reluctance

The decrees they shall make in those proceedings  
before them, will more fully ascertain the principles  
by which they are governed. I then hope which  
American appellants may be allowed to cherish.

In a case argued for argument on Saturday  
morning which has been <sup>long</sup> ready for a hearing, the  
decision will be important as it will ~~determine~~ <sup>determine</sup> the  
fate of a considerable class of the American cases.

The great point of law to be settled in this case  
is, whether Great Britain will permit a trade  
between France & her colonies to be carried on in  
time of peace by vessels of the United States which  
was not allowed by the laws of France in time  
of Peace. As I take the law of nations to be clearly  
with us in this case. Should the decision be in  
the British favor, I shall suspend proceedings  
in all cases that rest on the same principles until

I shall have heard from you on the subject—

As Sir William Scott is concerned here for the

captors has said to be sanguine of success. I apprehend  
this point must eventually be settled by negotiation.

I have the honor to send you at this time several  
inhibitions in cases where further papers have  
been lately received, a list of which is enclosed.

Also some printed papers relative to Sir J. James  
V Sir C. Grey's proceedings in the West Indies -

I remain with great respect Dear Sir

Yours most obed<sup>t</sup>

Thos. H. B. Kent

Samuel Bayard

The Secretary of State.

Recd by James 1822  
See Serial 1192

The Secretary of State

Bayard  
13 June 1795

recd 25 Aug. 1795

Philadelphia

Secretary of State for the U.S.

The Honorable Edmund Randolph

Admission no more further papers have  
I have the honor to send you at this time  
this being most respectfully is with my regards  
as to the said & be long mine of course. I hope

been lately received, a list of papers & documents  
also some papers relating to the U.S.  
of the U.S. I hope to be able to send you  
some more papers relating to the U.S.

James Osgood

24<sup>th</sup> April 1794

Appeared personally Sir John Jervis  
 Knight of the most honorable Order of the Bath  
 and a Vice Admiral in his Majesty's Navy  
 and made oath that that at the capture of the  
 Island of Martinique in the Year one thousand seven  
 hundred and ninety four a considerable number  
 of Vessels of different denominations were taken  
 by some of the Ships under this Deponent's command  
 in the Ports, Harbours or near to the said  
 Island many of which Vessels together with their  
 cargoes were claimed as or alleged to be the  
 Property of Subjects of the United States of  
 America and this Deponent further saith that he  
 did not personally interfere in the seizing  
 taking or securing any of such Vessels or  
 the Papers belonging thereto but he hath been  
 informed and verily believes that such papers  
 as were found on board the said Vessels or  
 delivered up by the Masters or Commanders  
 thereof were afterwards deposited and afterwards  
 remain in the Registry of the Court of Vice  
 Admiralty established in the said Island of  
 Martinique under a Commission from his  
 Majesty unless the same have been transmitted  
 from the said Island and are now in their  
 Passage to England in pursuance of Instruc-  
 tions sent out for that purpose and this Deponent

1777 further saith he hath not in his Possession or power  
any papers or Documents ~~whatsoever~~ taken on board  
or belonging to any of the said Ships or Vessels  
nor does this Deponent believe that any such are  
now in England and this Deponent further saith  
he is informed and believes and that previous  
to this Deponents return to this Kingdom in the  
Month of January last Instructions were sent  
to Martinique by the Agents of the Captains to  
transmit to this Country all the Papers and  
Documents found on board of or belonging to  
the Vessels captured there as aforesaid and soon  
after this Deponents arrival in England  
the same Instructions were again sent out to  
Martinique by another Opportunity of conveyance  
and lastly this Dep<sup>t</sup> saith that he is not in  
possession of any Evidence which will enable  
him to proceed to the Adjudication of any of the  
Ships or Vessels taken <sup>at</sup> or near Martinique as  
aforesaid nor doth he believe that any person  
or persons in this Kingdom are in possession  
of such Evidence.

Sworn before me

L. P. Parson

Juror.

J. Ferris.

Martinique

Copy of Affidavit of Sir  
John Ferris—

22<sup>nd</sup> April 1795.

13

James Baillie of Finsbury Square in the County of Middlesex Esquire maketh Oath and saith that he was one of the Agents for the Prize property taken at the capture of the Island of Martinique in the West Indies in the Year one thousand seven hundred and ninety four by his Majesty's land and sea Forces under the Command of Sir Charles Gray and Sir John Jarvis <sup>this Deponent</sup> and further saith that a considerable number of Vessels of different Denominations were taken in the different Ports Harbours & creeks at the said Island many of which Vessels together with their cargoes were claimed as being the Property of Subjects of the United States of America and this Deponent further saith that in consequence of an Order from Captain John Salisbury Commander of his Majesty's Ship Beaulieu one of the Squadron under the Command of Sir John Jarvis that all Masters of Vessels should assemble on board the Beaulieu and bring with them all papers <sup>belonging to</sup> relating to the said Vessels and cargoes claimed as American as were produced were collected by his Clerk in the presence of and delivered to this Deponent who kept them some time in his custody & then delivered the same to Thomas Applethwaite Esq<sup>r</sup> a person employed by the Captain and this

Deponent further saith that he verily believes  
the said Papers were deposited in the Registry  
of the Court of Vice Admiralty at Martinique  
and that they remain there or in the hands  
of some person or persons in the said Island  
unless the same have been transmitted therefrom  
and are now on their Passage to England in  
consequence of Orders sent out by the Capt  
for that Purpose.

J Baillie.

Same Day the said James Baillie  
Esquire was duly sworn to the  
truth of this Affidavit before me

J. P. Parson

Surr.

Handwritten text, possibly a signature or name, appearing upside down.

Handwritten text, possibly a signature or name, appearing upside down.

*Martinique*

*Copy of Affidavit of James  
Baillie.*

7.

Admiralty Prize Court, Friday 6<sup>th</sup> May 1795. —

15

Sch<sup>r</sup>. Relief, was bde m<sup>r</sup>. } Townley returned  
Monition to  
proceed to  
Adjudication. Heseltine  
appeared thereto in order to save  
the Contumacy of the Parties cited but under  
Protestation and reserving to himself and his  
said Parties all benefit of such protestation  
alleged that it is not at present in the power  
of his Parties or Captors of this Ship and Cargo  
(if any such capture was ever made by them)  
to proceed to the adjudication thereof not being  
in possession of any ships papers found on  
board of or belonging to the said Ship and he  
further alleged that many ships and Vessels were  
in the Year 1794 taken and seized in the West  
Indies by or under the authority of the Parties  
monished as Captors in this Cause That all the  
papers found on board the said ships were  
deposited in the hands of Agents in the first  
instance and afterwards as it is believed in  
the Registry of the Court of Vice Admiralty  
established in the Island of Martinico under  
a Commission from his Majesty where they  
now remain unless the said papers or any  
of them have been transmitted from thence  
and are now on their passage to England  
in pursuance of Instruments & Duplicates thereof  
sent out by the Captors or their Agents for  
that

that purpose and in verification thereof  
referred to the sworn attestations of Vice  
Admiral Sir John Jarvis one of the Port  
monished and James Baillie Esquire one  
of the Agents for the porties monished nor  
by him exhibited, and he prayed time to enter  
his protest, and to bring in the ships papers  
or to pursue such other legal measures as  
circumstances may warrant, and as  
Council may advise. —

Handwritten notes in cursive script, possibly a list or a short letter, located in the upper left quadrant of the page. The text is difficult to decipher due to the cursive style and fading.

American claim to  
Dr. J. Lewis & Co. }  
Chas. W. Dyer }  
Sydney Green & Co.

11<sup>th</sup> June 1795

Schooner Relief

Asa Cole Master Townley

Townley

Heseltine } referring to  
the Protest of

Heseltine and Allegation

by him made on the Eighth

Day of May last asserted the Jurisdiction of the

High Court of Admiralty of England & referring

also to the Records of this Court alleged that

the Letters Patent authorizing his Majesty's

Commissioners for executing the Office of

High Admiral of Great Britain and Ireland

to constitute and appoint a Vice Admiral,

and also a Judge and other proper Officers

of a Court of Vice Admiralty at each of the

Islands of Martinique & St. Lucia did not

issue until the 20<sup>th</sup> Day of February 1795.

Being only eight Days previous to the issuing

the Monition in this Cause, and that at

the Commencement of Proceedings therein

in this Court, no Court of Vice Admiralty was

established in the said Islands or either of

them, wherein the papers found on board the

said Ship could have been legally deposited,

And he further alleged that it must be a

fact within the knowledge of Heseltine's parties

Sir John Jervis, and Sir Charles Grey or their

immediate Agents whether the Ship in question

was or was not captured by them or under  
their

their authority, and referring to the claim and attestation by him exhibited the said Townley humbly submitted, that it is not reasonable that Heseltine should be allowed to defer proceeding to Adjudication in this Cause under a mere insinuation that such capture may have been made in direct opposition to the said Claim and Attestation. Wherefore he prayed that Heseltine's Protest may be overruled and that he may be assigned to appear absolutely and to proceed to Adjudication pursuant to the Monition issued and returned in this Cause, and to bring in the Ships papers within such time as to the Court shall seem meet.

The Judge assigned Heseltine to extend his Protest by the Day Day (7<sup>th</sup> July)

Schooner	Lucy	N. Trudwell	the like
Brig	Betsey	N. Nowell	same
Schooner	Betsey	M. Ingals	same
Schooner	Sally	George Raney	same
Brig	Betsey	R. George	same
Schooner	Polly	John Pittman	same
Sloop	Mary	Silas Eames	same
Sloop	Harmony	Timothy Parker	same
Sloop	Three Friends	Joseph Stout	same
Schooner	Polly	James Houston	same
Brig	Clarissa	F. Tracy	same
Schooner	Betsey	John Taylor	same
Schooner	Mary Ann	George Reynolds	same

Brig	Betsey	John Wiley	same
Brig	David George	Rich <sup>d</sup> . Fryor	same
Schooner	Fame	David Saunders	same
Brig	Dolphin	Enock Knapp	same
Brig	Sally & Betsey	W <sup>m</sup> Mc Lellan	same
Schooner	Polly	Samuel Davis	same
Sloop	Mary Anne	Buntal	same
Sloop	Iris	Daniel Freeman	same
Schooner	Friendship	Richmond Andrews	same
Brig	Polly	Benj <sup>d</sup> . Foster	same
Schooner	Phoebe	W <sup>m</sup> Cole	same
Brig	Mary	Josiah Smith	same
Brig	Jerusha	Judeiah Southworth	same
Schooner	Montgomery	David Child	same
Schooner	Industry	Jon <sup>a</sup> . Pease	same
Schooner	Flora	Jacob Williams	same
Brig	Sally	Hugh Smith	same
Sloop	Garland	Geo. Garland	same
Brig	Maria	John Byckmore	same
Brig	Beres	W <sup>m</sup> Hall	same
Schooner	Ann	Timothy Crocker	same
Schooner	Fisher	Shot Rogers	same

2d.

*The Fury, Peter William Marrener Master*

Sir William Scott is requested to peruse the Papers herewith left, and as it appears from the Examination of the Master, and Owner to the first Interrogatory, that he lives in Curacoa and has there resided for the last seven years when on shore, and to the fourth, that his wife and Family reside at Curacoa, and as the ship was Captured in a Voyage from Curacoa to Saint Domingo, and from thence to Philadelphia, to advise whether, Notwithstanding his being in the Command of a ship under the American Flag, the said Master is not to be considered as a Dutch Subject in respect to the Transaction in question and his property as liable to Confiscation as having been engaged in an Illegal Trade.

If Sir W<sup>m</sup> Scott. should be of Opinion that Captain Marrener is competent to Claim, he will then Please to refer to the Evidence of William Merry the third Mate, to the 5<sup>th</sup> & 12<sup>th</sup> Interrogatorys, to the answer of Paul Bettremier, to the 6<sup>th</sup> & 16<sup>th</sup> Interrogatorys, and to the Attestation of John Crawford, and to give his Opinion whether admitting the Attestation made by the said Bettremier at Philadelphia, and the explanations

otherwise given in the Papers herewith left can  
be introduced into the cause, there is a reasonable  
prospect of success on the Appeal.

### Opinion.

This appears to me to be a hazardous case  
to be proceeded in. There are many circumstances  
that throw a very strong suspicion on the case  
on the part of the Claimant. His own Protest is  
a Document so incautiously expressed as to  
<sup>furnish</sup> ~~furnish~~ no inconsiderable argument against  
the fairness of the Claim.

I cannot bring myself to think upon the  
Evidence here stated that the Claimant can  
rely with confidence on a Reversal of the  
Sentence.

Ex<sup>d</sup>

Wm Scott

May 8<sup>th</sup> 1795.

Com<sup>d</sup>

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For Mr. Scott's opinion in the  
Jury - measure -

Hercules - Jones

The following is a Copy of the  
Opinion of Sir Wm Scott on  
the Draft of the Claim on behalf  
of Mr Shipwithe -

" I cannot recommend an  
Appeal for I am of Opinion  
that upon every just and admitted  
Principle of the Law of Nations  
the Property of Mr Shipwithe is liable  
to be considered and treated as the  
Property of a French Merchant "

Wm Scott

Mr Shipwithe was consul at Martinique but how  
long he resided in this Island after the commence-  
ment of hostilities between France & England is a matter of  
speculation I ought to be apprized -  
J.B.

List of American vessels taken by English

23

Privateers under the authority of recent orders  
thought into port under colour of their  
being bound to France with provisions.

1 The Elie Amasa ~~Smith~~ <sup>himself</sup> Master  
from Curacao to Amsterdam with a cargo of  
Cotton, Cotton Dry Hides, Tobacco & Mahogany  
detained at Ramsgate.

2 The Bethia Joseph Cartwright Master from  
Amsterdam to Bordeaux, with a cargo of  
Iron Hoops, Wheat &c. taken by His Majesty's  
Ship L'Eclipse J. Mainwaring Commr. and  
brought to Deal.

3 The Sally Thomas Anderson from  
Gluckstadt to Lisbon cargo taken  
by the Spitfire Anker & Morris and  
brought to Portsmouth & released.

Bayard has applied to the Admiralty for a claim  
4 The Mercury Benjamin Pearson  
from Rotterdam to Bordeaux cargo  
Cheese &c. taken from the ship by the  
Spitfire and brought to the Downs  
<sup>claimed by Mr. Bayard</sup>

5 Charleston John Black from Altona to  
Lisbon cargo Wheat Ship detained in  
the Downs & released.

Bayard has applied to the Admiralty for a claim  
6 Industry Stephen Parsons from Philadelphia  
to Nantes cargo Sugar &c. taken by  
the Antelope Master Robinson and  
brought to Plymouth  
<sup>claimed by Mr. Bayard</sup>

7 Light Floris Mace Townsend from  
Salon to Bilbao Cotton Indigo taken  
by the Antigua Math Robinson and  
brought to Plymouth

8 Polly Mayo Nickerson from Providence  
Bourdeaux Cargo Salt Fish taken by the  
Marborough and brought to Portsmouth

9 The ~~Star~~ Thomas Parker from Curacao  
to Amsterdam Cargo Indigo taken by  
the Unicorn William Leahy and brought  
to London

10 The Stipolite Black Cargo Trust de  
from Bourdeaux to Nantes taken by  
the Adeline

11 The Newport William Chapin from  
London with Beef &c

12 The Mary Nell Count from Philadelphia  
to Bourdeaux Cargo of Flour Indigo  
taken by the Blonde and brought to  
Plymouth

13 The Patriot Benjamin Lee Master from  
Boston to Bourdeaux with Flour

Mr Bayard has 14 The Iris Beulah Beebe Cargo Firkin  
been applied to  
declared a Claim  
Lard from  
claimed by Mr Bayard

15 The Neptune James Jeffries from  
Charleston to Bourdeaux Cargo Rice  
Tobacco Indigo and Soap  
claimed by Mr Muller

16 The Otway Moses Brown from Portsmouth  
to New Hampshire to Nantes taken  
by a Captain George Murray & Co. Portsmouth

18 Adeline Kierman Litchfield from  
Garonne to Ham. bugh taken by the  
Ranger

19 The Harriet Johnson from Bourdeaux  
to Dunkirk -

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and of the length  
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matted before found for  
them.

acquired from the collection  
the things mentioned.

List of vessels seized & condemned at St. Pierre  
in the Island of Martinique in which <sup>cases</sup> no papers  
have been received by Mr Bayard. —

some papers recd  
but not sufficient

- 1. Schooner Polly. — — — George Spitzburg. Master
- ~~4. Brig Fanny~~ — — — Dan Sage. — — — 30
- 5. ~~Schooner~~ Rosina . . . . . Zephaniah Kingoly. — — —
- 7. Schooner Eclipse . . . . . Dan Cheary. — — —
- 8. Brig Jason . . . . . David Rapp. — — —
- 9. Schooner Olivia & Mary — — — John Dawson. — — —
- 10. ~~Dan~~ Schooner Eagle — — — David Brown. — — —
- 15. Brig Ann . . . . . John Knightman. — — —
- 19. Brig Minerva . . . . . Saml Holt. — — —
- 20. Ship William . . . . . Saml Bunker. — — —
- 22. ~~Ship~~ Brig Eliza Phelps . . Philip Reed. — — —
- 27. Brig Mary. — — — William Monday. . . . .
- 33. Schooner Polly . . . . . Henry Storer. . . . .
- 40. Schooner Peggy Polly. . . . . Moses Brown. — — —
- 42. Schooner Maria . . . . . Bartholomew Byres. — — —

some papers  
recd. but not  
sufficient —

At St. Lucie —

- 2. Schooner three Friends. . . George Norton
- 3. Ship William. . . . . William Warner.
- 4. Schooner Hope. — — — Jonathan Snow.
- 8. Schooner 3 Brothers. . . . . William Abbott. —

27

The Schooner York - Thomas O'Brien M.

This appeared to be an American vessel with a large quantity of provisions belonging to the master and Messrs Armstrong & Barnardale of New York taken, on her voyage from thence to St Domingo by the British private ship of War the Kate John Tucker Commander and carried to Bermuda and there prosecuted against and condemned as prize on the 26 March 1794 from the sentence of condemnation the master immediately appealed. —

At the expiration of the nine months the Captors applied to the Courts of Appeal to pronounce the appeal deserted, of which Mr Bayard having received information he thought it his duty to support the Application of the Captors, and His Lordship accordingly rejected the Application — on the 30 May 1795 Mr Bayard moved His Lordship by Sir William Scott the King's Advocate to grant Leave to prosecute the appeal interposed in Bermuda, the ordinary time allowed for prosecuting an Appeal having expired.

This Application was ~~and~~ supported by the Captors Counsel who again moved His Lordship to pronounce the Appeal deserted.

The Captors urged to His Lordship that not only the nine months allowed for prosecuting an Appeal, but more than 12 months were expired.

With the Plaintiff's Counsel could not plead Ignorance of the mode of proceeding He having regularly entered his appeal to His Lordship, and appearing on the Face of the proceedings to be perfectly cognizant

of the steps to be taken for bringing such  
Appeals to hearing before the proper Tribunal.

That Mr. Bayard did not appear to act  
under any direct authority from the Master  
or owners of ship or cargo, but merely as the  
Agent of the United States, which he contended  
was not sufficient to justify his being received  
in Court as a Party in a Cause.

That there was nothing alleged on the part  
of the Claimants or Appellants to show they could  
not prosecute the Appeal before.

That if Claimants or Appellants were at  
Liberty to take any indefinite time for  
bringing their Claims or Appeals before their  
Sovereigns it would be an extreme hardship  
upon Captors who would never know when a  
Cause was at an end.

Sir William Scott intrepidly stated that  
their Lordships had already in various cases  
granted Leave to Mr. Bayard to prosecute  
Appeals where the  lapse of time beyond that  
which is usually allowed was much greater than  
in the present instance - that it was understood  
by the Treaty entered into between England  
and America that the Claimants & Appellants  
were to have a greater latitude than had been  
allowed heretofore on account of the peculiar  
circumstances of their case, but he was shown  
by their Lordships who were clearly of opinion  
that a certain period should be fixed after  
which no appeal could be prosecuted, and that  
the reasons for not prosecuting within the  
nine months should be shown afforded  
to the party prosecuting particularly set forth  
at the time of applying for Leave that

but it must  
be remembered  
that the  
court is not  
to be bound  
by the  
expressions  
of the  
parties

might judge whether the occasion of the delay was such as to bring it within the terms of the order 'just & reasonable Impediments' and as that had not been done in the case of the York, they would not grant Mr Bayard's prayer, for leave to prosecute, they however also refused to grant the Capt's prayer for pronouncing the Appeal deserted, , , thereby intending to leave it open to Mr Bayard to shew if there was power that just & reasonable Impediments had existed which prevented the parties concerned from prosecuting their ~~appeal~~ in due time.

On the 14 June 1795

Their Lordships having been moved by Sir William Scott to grant leave to Mr Bayard to prosecute Appeals in the case of the Little Cherub and some others, carried into Bermuda they shewed some Reluctance and observed that if some Limitation of time was not made by the order of Council of the 6<sup>th</sup> August 1794 it was high time there should, and the order being called for was read from a File of Gazettes - the Master of the Rolls, Newspaper intimated that a year from the said 6 August 1794 appeared to him to be a reasonable time and that a fresh order should be made by the Council and communicated to the American Minister -

It will it is submitted be proper, and it even may eventually be absolutely necessary for Mr Bayard to have a special authority in the way of a Letter of Attorney from each person on whose behalf he institutes a claim or an Appeal in a prize cause to enable

to kind to act with effect in every stage of  
the cause, and not be subject to have it  
delayed or the effect of a decree defeated for want  
of such authority

The above information just received from  
Mr. Slade, being the substance of notes taken by him  
during his attendance lately at the Court of App.  
appears to me too interesting, not to send you  
by the present opportunity.

S. Bayard.  
19. June 1796.

The Hon<sup>ble</sup> Secretary of State.

List of Causes presented by Mr Bayard, in 33  
 which appearances have been given & other  
 proceedings had, in the High Court of appeals.

Set Down for Hearing

Libels of appeal given

Nancy - Florence

Harriet T. Smith

Good Intent Archer

Jane Lillibridge

Farmer Osborn

John Pollard

Sally Hayes

Atlanta Waterman

Harriet - Calder

Kate Crocker

Preparing for Hearing

Patty Wilson

Sally Choate

Plemaicks Chunn

Suey Andauls

Rising Sun Wilkey

Samson Barney

Harriet & Eliza Steuman

Octoy Deturkin

Eliza Leves

Sally Hesp.

appearances given  
 America Thoun

Commerce Neal

Hannah Post

Pigou Lewis

Hop Padock

Salome Wapen

La Fayette

Lydia Capell

Neptune Town

Laura Pond

Inhibitions returned but  
 no appearances.

Octoy Sloum

Dolly Clarke

Polly John Smith

Diligent Cunningham

Polly Herman Smith

Experiment Newbridge

Polly Bickford

Venus Gardner

Polly Milberry

Octoy Spurr

The description

see in Mr. Bayard's letter  
Jan'y 18. 1946

3

1

2

List of American Vessels bound from the Chesapeake to France laden with Flour &c. on account of the French Government, under convoy of the Leoncorde Frigate and another French Vessel of War which were taken by the Squadron under Admiral Murray and carried to Halifax where the Cargoes were condemned. The Vessels restored but without Freight, Demurrage or Expenses.

Vessels in which Inhibitions have been extracted the Papers having been transmitted to Mr. Bayard.

The George Washington	Wm. Mayson Master.
Mary	James Buchanan M.
Polly	Pliny Hamilton M.
Susannah	Robt. Hillbridge M.
Murricane	Wm. Perry M.
Potomack	Robert Churn M.
<u>Vessel &amp; Cargo condemned.</u>	

Vessels in which no proceedings have been taken, no Papers having been transmitted.

The Amazon	J. Omeara M.
Atlas	N. Sloo M.
Albion	Richard Derby M.
Maria	Mr. Barrow M.
Commerce	Wm. Pefferell M.

*Vessel & Cargo condemned*

Appeals

## The Brig George Washington

William Mason M<sup>r</sup>

This Vessel was one of a Fleet of Twelve or Thirteen American Vessels which were taken the day after their departure from the Chesapeake by a Squadron of His Majesty's Ships under the Command of Admiral Murray and conveyed to Halifax.

The whole Fleet was at the Time of the Capture under Convoy of Two French Ships of War which had been appointed as a Convoy to France the place of its destination the Cargo of this Ship consisting of 612 Barrels Flour was for Account of the French Government as were likewise the Cargoes of said other Ships.

The Judge of the Vice Admiralty Court at Halifax condemned the Cargo as French Property and restored the Vessel as American Property but pronounced against the Claim made for Freight Demurrage and Expenses

and condemned the claimant in the said  
facts of the claim.

From the Decree refusing Freight to the  
Claimant has appealed. The Papers have  
been forwarded to Mr. Bayard in order that  
he might in his official capacity prosecute  
the said appeal. The like Decree has  
been made and an appeal entered in all  
the other Vessels taken at the same time  
and the proper Documents transmitted to  
Mr. Bayard for the purposes aforesaid and  
Mr. Bayard to save the Rights of the  
Parties has so prosecuted the said appeal  
as to have the usual Inhibitions got in.

The Papers transmitted to Mr. Bayard in  
this case left herewith and Mr. Bayard  
before any further steps are taken in the  
prosecution of the said Appeals is  
desirous of having your opinion.

1<sup>st</sup> Whether there is any Probability that the  
Lords of Appeals will reverse the  
Decree appealed from inasmuch that  
Freight or Demurrage is due to the  
American Owners. And

39  
2<sup>d</sup>. (Whether it is advisable on any view  
to bring the said appeal to a hearing.)

Although a Neutral Ship may legally carry Enemies  
property yet the Belligerent <sup>has</sup> on the other hand  
a right to seize that property paying the Neutral  
his Freight and Expenses. If the Neutral in  
order to prevent the Belligerent from exercising  
his legal right puts himself under the Enemy's  
Convey, the Claim of Freight and Expenses  
is thereby forfeited. It is a Departure from  
that impartiality which the Neutral is bound  
to observe. The only question in this case would  
be whether the Ship itself was not under the  
Enemy's power liable to Confiscation. But as the  
Ship has been restored I do not think it  
advisable to bring the appeal to a hearing.

J. Nicholls.

Command

Jan. 13<sup>th</sup> 1796.

Appeals  
Brig. George Washington  
Wm. Mason  
Cast

Opinion of J. Mitchell

dictated in Mr. Benjamin  
letter of Jan'y 18. 96.

for Mr. Mason with note  
by Mr. Reeves - Wm. Mason.

The Secretary of State.

London. 8. Feb. 1796.

29

Sir,

In a former communication I had the honor to make you, I mentioned, I believe, having given Mr Adams a note of the principal points that would arise in the prosecution of the appeals, on which it would be highly expedient to have some understanding with the Ministry prior to their discussion before the Lord of Appeal. Since Mr Pinckneys return, Mr Adams has thought it proper to refer this business wholly to him. I have therefore without delay communicated to Mr Pinckney the substance of what has passed during his absence & the measures that demand his earliest attention.

He will avail himself of the first opportunity of discussing with Lord Grenville the principles that must govern the largest & proportion of the American appeals. To enable him to do this with the greater advantage I apprized him of a consultation that was to be held <sup>in the case of the Sally (Hague)</sup> at St Nicholls chambers, to which I had the pleasure to attend him on Saturday last, ~~in the case of the Sally (Hague)~~ On this occasion the principle of "how far neutrals are to be prevented from carrying on in time of war, a trade not permitted in time of peace" was ably investigated. The question of what should constitute amissibility was also considered. On this Dr Nicholl threw much light, I recommended its being

settled, if possible, so far as the claims of the U.S. are concerned  
prematurely to its being heard & decided before the Court  
of Appeals - Mr. Puckney will further state to Lord G.  
that <sup>there</sup> are several American cases now ready for a hearing  
before the Court of Appeals, in which points of extensive  
national importance are to be settled - property to a large  
amount depending - the attention of which is extremely inju-  
-ous to the claimants, & will prep for their early hearing &  
decision - Perhaps before the settlement of the points in  
controversy between the U. States & G. Britain, the govern-  
ment may have wished to be satisfied ~~as~~ as to the measures that  
would be pursued by the House of Representatives of the U.S.  
respecting Mr. Jay's treaty. Their answer to the President's  
speech has been received. From this very favourable con-  
-siderations are drawn. The friends of the U.S. here cannot doubt  
that this branch of the Legislature will concur in giving  
full effect, so far as lies with them, to a national contract  
made & concluded by authorities constitutionally qualified  
to make & ratify the same. In case our weaker Govern-  
ment on this subject are not disappointed. I have every  
reason, at present to believe that we shall experience  
considerable aid in the amicable adjustment of our con-  
-troversies with G. B. particularly in the settlement of the claims  
and appeals under my direction -

It is with great satisfaction that I inform you of an  
unanimous decision in our favour by the Judge of the High  
Court of Admiralty in first of the Martinez cases.

It was opened & in part argued on Wednesday last.  
The Judge then appeared under considerable embarrassment  
the decree he should make. With a view of freeing him-  
self of the business, & of sending us for justice to the Court  
of Appeals, he intimated that he might probably direct  
us to 'plead & prove', a form of procedure that involves  
extreme delay. That is adopted in those cases only  
where strong suspicion exists against the claimants.  
But finding our Counsel strenuously oppose this  
he consented finally that our claim should be admitted  
if the evidence in the case was. From the number of facts  
stated in the papers annexed to the claim, in this suit, then  
applied strongly to the other cases, we had selected three  
of the Relief. (Cole M.) to take the lead. Having heard  
our counsel, the Judge postponed the further arg<sup>t</sup> of the  
case until yesterday, when the Kings advocate was heard  
on behalf of the captors. His argument was rather a  
defense of the characters of Sir J. Jervis & Sir C. Grey than  
an opposition to our claim. The hearing finished, the  
Judge without hesitation decreed us restitution of vessel & cargo  
to which after a little further consideration he added, costs & Damages

The next case was then called. But as Sir W Scott declared himself to be unprepared in this & the following cases, as he had gained an important point - he more interested in trying every degree of cautious liberality. we agreed not to press the business further this day, but to postpone the hearing of the other cases until the next Admiralty day, which will be on the 17. inst. - There were any reliance to be put on the uniformity of Sir James Mansfield's opinion might ~~we~~ promise ourselves a like assistance in all suits against Sir J Jervis & Sir L Grey. But really there is no saying what will be the opinion of the Judge of the Admiralty for two days on the same subject.

I propose sending you for the information of yourself & our fellow citizens a short report of this case, whenever I can find time to copy out the notes I took <sup>in it</sup> of the arguments of counsel - & the opinion of the Court.

I have just received the 3 inhibitions sent by Mr. W. in the Lady Waterston - with Mr. Wagners letter of the 11. This I have sent to Mr. Pinckney. His opinion on <sup>the</sup> ~~the~~ ~~the~~ referred to in this letter will be my guide. Whether he has made any or what arrang<sup>t</sup> with Lord G. respecting these cases of cost & damage I cannot say. When I learn I shall do myself the honor of writing you fully on the subject.

With great respect & esteem  
I remain Sir. your mo. obed. serv<sup>t</sup>. Samuel Rogers

The Secretary of State

(Dup.)

New York Coffee House - 31  
Feb. 1896

Sir

I enclose is a memorial which I prepared  
the beginning of this week, & which having been approved  
by Sir M. P. D. & whole was this day laid before the  
House of Appeal. It has had a distinctly favorable effect  
that will operate highly in favour of our interests.  
The Master of the Rolls spoke of the conduct of the Judges  
of the Courts in the West Indies as "shameful & shameful."  
& Lord Mansfield (the President of the Board) observed that  
it would be proper that Lordships should act after  
the Council had withdrawn, in order to determine  
on the form of a letter to be addressed to the Duke of  
Portland on this subject, in consequence of my memorial.

There were no cases argued this day; but we  
understand the Lord will certainly certainly begin  
to hear such American cases as stand first on the  
list which involve the question of the trade between  
the French West Indies & Europe, on next Saturday.  
But this will depend on the circumstances of the  
Law Lord being able or not being able to attend at the  
Court - I have the honor to be  
Sir Your most obedt. servt. Sanborn

February 9<sup>th</sup> 1846.

The above a copy of what I had the honor to write you on Saturday last at the moment when the letter bag of the Maria was taken from me at Newgate coffee house. Since which time I have had the pleasure of seeing Mr. Pinckney on the subject of the case of est. Damage - As your instructions thro' Mr. Maguire respecting there is correspondence, we shall let them rest as they are at present until your next dispatches arrive. In the mean time we shall urge on every suitable occasion the hearing & determination of our appeals at as early a day as possible.

It is a matter of no small importance to us to obtain decisions on the commercial & political questions involved in our appeals prior to the period of a general peace -

I remain with perfect regard

Dear Sir your old friend  
The Hon<sup>ble</sup> L. Pickens Esq. Saml Bayard

1861 Oct 10 - 1860

James S. Maynard  
Feb 6. 89th. 1796.

Costs of January

The Secretary of State

London. 20. August. 1796. 50

Sir

The Court of Appeals rose on Saturday the 30 July, without hearing any more of the many American cases that were ready for argument & decision. Since which time nothing interesting has occurred in any of the business under my care -

The Commissioners have had two meetings - but have not yet chosen their fifth. They meet again on Thursday next, when probably they will agree on some ~~overseer~~ gentleman as their fifth Commissioner.

The enclosed relates to a case <sup>in</sup> which I have assumed the direction provisionally - Should you think the parties themselves ought to be at the expense of conducting the appeal you will please to inform me by the earliest opportunity.

I have the honor to be  
Sir Your most obed<sup>t</sup>. serv<sup>t</sup>.

Sam Bayard

S. Bayard 20th Augt. 1796

recd. 11 Oct.

Oct. 11

Office of the  
Hon. Secy.

Samuel Pickens Esq.

Secretary of State

Phila. 7th May 1796  
Philadelphia

Samuel Bayard Esq<sup>r</sup>

London 20<sup>th</sup> June 1796

52

I beg leave to solicit your protection of an Appeal lodged in the Case of the Industry Cap<sup>t</sup> Baates a native Subject & Citizen of the United States of America, for whom I am the Agent—The Papers accompanied herewith, state the Circumstances under which this Vessel, originally a French Bottom, was bought & navigated from L'Orient, the nature of the Voyage, capture in distress from necessity for Bordeaux & condemnation in the first hearing at Doctors Commons

I shall also crave your permission to state what occurs to me on the general Subject, not doubting, should my Observations in your better judgment appear to have weight, you will have the goodness to extend to this Case that Protection which is afforded by our Government to real grievous Sentences in the British Courts of Admiralty

I am informed the following Points are destructively admitted here

- 1<sup>st</sup> That a neutral has a Right to purchase a Shiping & to navigate her from a belligerent Port.
- 2<sup>d</sup> But he is not to carry on the Trade of an Enemy.
- 3<sup>d</sup> Nor any Trade to the Port of an Enemy not permitted in time of Peace.
- 4<sup>th</sup> The Domicile of the Wife & Family of a Captain fixes the neutrality or otherwise of his Character

The Evidence in this Case is no way contradictory to any one of those points—The Captain was never in French employ or trade since the war on the contrary left France as soon as he could after hostilities, in an American Ship owned in New York & Rhode Island & after performing a long circuitous Voyage in the same Ship returned from the Cape of Good Hope to New York & Rhode Island, & from thence under a new Agreement came to Havre de Grace, there quitted his American Built Ship & proceeded to L'Orient for the double purpose of buying a small Vessel on his own Account & of sending his Wife & Family to their own home, who were, as it appears by all the depositions relating to them, actually residing at Nantucket long before the Capture

No regard whatever has been paid to these Circumstances by the Judge of Admiralty, but every thing in favour of the Captain has been treated as fiction & the Vessel & Cargo has been condemned on the Ground of residence in France, contrary to their own Doctrine of

Domicile, stated in the 15<sup>th</sup> Article on the other side. — These are what appear to me reasonable grounds of complaint in this particular case according to their own system, even admitting for the moment that other Powers will suffer such definitions of neutrality to be acted upon in the Law of Nations —

In the last war the Capture of the Selam of St. Constantine involved a vast property of different Descriptions — a description adequate to the magnitude of the Object took place here — the result was, restitution to all those neutral persons who had not become Freemen or Burghers under the Dutch Government without regard to Residence —

In the present war, neutrality is no longer the same as before. Given Allegiance regarding themselves & other nations bears a double meaning — A British born subject wherever he goes is held as such for life, while a native Citizen of America coming to Europe on speculative Objects of Trade, with the constant intention of Return is considered in the Courts of Admiralty here as an Alien from his own Country & a fair Object of plunder for this —

There is a perfect variance, on the question of neutrality between the Courts of Admiralty & other Courts of Justice here — The distinction set up is, — one is Maritime & the other municipal Law. How is it that one principle of equity should not apply to both, is one rather irreconcilable in every view of Justice —

Although it has no immediate relation to the case of Capt. Baxter, but as a part of the general Subject, I cannot help make one observation on the third Restrictive Article before mentioned, in Order to mark a deviation in their own Conduct from the spirit of those principles they would Dictate to other Nations — it states "No trade shall be carried on to the Port of an Enemy that was not permitted in times of Peace." — That is in my apprehension to say, no nation shall make the least Alteration in the usual state of its Trade for its own convenience in time of War — In proof of a most palpable violation of this Doctrine in this Country, we need only remark two instances — 1<sup>st</sup> a suspension of part of their favourite navigation in permitting their trading Ships to be navigated in war time by three fourths foreigners — 2<sup>nd</sup> By an Act of Parliament passed in Session, the importation of Molasses is permitted from their colonies in foreign Ships —

I must now crave your indulgence whilst I state something concerning the nature of the Vesbury this Captain & others were engaged in, in France, before the present War, because much has been said about it both pro & con in America which pro

53

ably may not have come so fully to your knowledge, & because in the pleadings at Doctors Commons, adopted by the Judge, under the specious colouring of an extreme concern for the maritime Interests of America, this Case of Citizens of the United States of America, have been treated as belonging to no Nation, but as inveterate enemies to this —

I could wish it may be remembered that the open Sea, or what is now called South Sea Whaling Fishery, formerly peculiar to Nanucket & its environs, was established in this Country prior to the war with America, & that no pains has been spared since, even by a Dispensation of another part of their Navigation Act, & various other kinds of encouragement given by the Government, to seduce American Fishers to come to this Country generally, but most particularly to the Port of Milford Haven. It is there are many Acts of Parliament to this point.

At the time of the last Peace the Markets of England for Whale Oil &c were shut against our Countrymen by the Operation of a foreign Duty tantamount to a prohibition equally attacking upon them with other Nations — France at that Moment was chiefly supplied with the products in question by contract with Portugal & the Hans Towns to the exclusion of all other Countries except under much higher Duties — The Government of France perceiving the object of England & desirous of emulating them in every object of Marine Commerce and finding themselves over-reached in the Treaty of Commerce regarding the Import of Oil also gave an invitation to American Fishers to come among them too advantageous to be refused by people in Distress — the consequence in France was, a prohibition to the Importation of Whale Oil &c from Portugal & the Hans Towns, & an opening to a very extended consumption, & various Avenues of Trade in such Articles infinitely beyond all expectations — Since that period the Fishermen in America & the American Fishers in France combined have had entire possession of the French Markets & Trade in such products, to the exclusion of all other Nations; an event that could not possibly have arrived in any other way, because, was it necessary, I could prove, it was the intention of this Government to have supplied France at any sacrifice, when the desire of the French Government to participate in this fishery was first discovered; — & I could also prove, that under any other Circumstances, the Contracts with Portugal & the Hans Towns, would have remained in force, to the prejudice of all those benefits that have resulted from an amicable intercourse of our Fisheries & Fishermen —

& permitting foreigners to command whaling Ships on an oath that they are Protestants.

Amidst so many inconsistencies & questions indefinite  
a consolation to observe, that Commissioners are empowered  
the Treaty to receive further Testimony if necessary & to decide  
the merits of Complaints, according to Justice & Equity as well  
the Laws of Nations

Under all these Circumstances, & bringing into view that  
the Twenty first Article of the Treaty, I submit to your judgment  
that there is not sufficient ground for me to ask on the Name of  
Justice the favour of your protection in the Appeal on this Case

I have the honor to be

Yr. Obedt.

Copy

...in ... 18th August 1896. 38

I have the honor to address you upon  
the subject of ...  
generally ...  
of the ...  
appeared to ...  
things of this nature to be prosecuted at the expense of  
our Government - On examining however the  
ratification of the Treaty which is dated in August 1895  
and comparing this date with that of the capture in  
question which took place December following in the  
same year a doubt has arisen how far on point of  
time early according to the letter of the Treaty this case  
comes within the protection meant in the 7th Article  
... to refer you to a copy  
of the letter to Mr. Bayard on this subject herein enclosed  
and at the same time to observe that notwithstanding  
it appears to be confessed on all sides that the spirit of  
the Treaty precludes no claims from coming under  
the consideration of the Commission that are not lost  
by negligence or abandoned and that are approved by  
the Agent appointed for this purpose and there appears  
to be no article in the Treaty sufficiently comprehensive  
to protect our Citizens against British depredations  
after the date of the Ratification - I mean that class

Citizens who have bought Ships in Europe and navigated them in various pursuits under the sanction of ministers and consular documents and undoubtedly from the length of time, with the implied approbation of our Government to whom they look with confidence for protection.

Your goodness Sir I have no doubt will excuse an observation I shall make on the 28<sup>th</sup> Article of the Treaty which in substance states that no violence shall be committed against the Subjects or Citizens of either party: Commerce shall not be accepted from an Enemy, or if taken in the fact by Sea the offending party may be treated as a pirate. An infraction of this Article has taken place against Capt. Baster the Complainant in the present case by the Captain in question, and he is deprived of the Sea Talons, which is, whether justifiable or not in the view of Government, a something valuable to every injured man. Hence it would appear to become an act of indispensable justice in the Government to whom only he owes allegiance to protect his property lawfully acquired untill that allegiance is forfeited by some act declared and understood to be a Law of Nations and none such is I believe at the moment clearly defined. Whether this Article is to be considered a mere formula or not it appears to me perfectly exposed to any interpretation this Government may be pleased to give it; and although no man has a greater regard for their judicial proceedings in other respects yet I am among the last that would trust an atom either to the generosity of their Government or the Justice of their Maritime Courts except under the strongest guards.

I shall hope for your approbation in this case addressed to Mr Bayard with whom it is understood that

that the appeal shall go on under his protection with  
others of the same nature, until an answer is received. 39

I have the honor to be with the highest respect

Sir Your obed<sup>t</sup>

& most able Serv<sup>t</sup>

T. B. R. C.

Timothy Pickens Esq<sup>r</sup>

Secy. of State

at Philadelphia

Recd  
P. M.  
Sept 10 1861

Sept 10 1861

How interesting it would be to see the original of the  
manuscript, which is now in the hands of the  
man who has been to see the original of the  
manuscript.

Yours very truly  
J. B. B. B.

Samuel Pickering Esq.

Secretary of State

Philadelphia.

Received of the

of the

of the

Papers sent to Mr. Bayard by the Brig Peggy (Capt. Hayer) for  
London on the 15<sup>th</sup> April 1796

40

1. Depositions &c. of several persons stating the reasons why copies  
of certain proceedings in the Court of Vice Admiralty of Jamaica were not  
expedited (a Copy of which is retained in the office of State.)

2. The following Spoliation paper

a Copies of the proceedings of the Vice Admiralty of Barbadoes  
in the cases of American Vessels.

b. do of Halifax D.

c. do of St Kitts D.

d. do of Dominica D.

e. Sch. President (Bool)

f. Mary Ann (Breistnell) addit.

g. Brig Commerce (Bradcott)

h. Sloop Diamond (Coring)

i. Snow John & Joseph (Huie) addit.

j. Sloop Dolphin. (Cramson)

k. Brig Recovery. (Mitchell) addit.

l. Sloop Dolly. (Smith)

m. Brig South Carolina (Greene)

3. Returned Inhibitions in following cases

a Sch. Hawk. (Damham)

b. Bark John. (Bollard)

c. Sch. Republican (Kerr)

d. Sch. Little Cherub. (Waite)

e. Brig Folly. (Congdon)

f. Sch. Ship Commerce. (Mosey)

g. Sch. Industry. (Groger)

h. Brig Neptune. (Darquer)

i. Ship Bacchus. (Robbins)

j. Brig Hannah. (Kenny)

k. Sch. Governor Clinton. (Harris)

l. Brig Two Brothers. (Seince)

Turn over

v. m. Sch<sup>r</sup> Swallow ..... (Firston)   
 v. n. Sch<sup>r</sup> Sally ..... (Taylor)   
 v. o. Sch<sup>r</sup> Mahana ..... (Watman)   
 v. p. Ship Margaret ..... (Merrick)   
 q. Sch<sup>r</sup> Jefferson ..... (Hmand)   
 r. Sch<sup>r</sup> Betty ..... (Young)   
 s. Sch<sup>r</sup> Mahala ..... (Wadworth)   
 v. t. Ship Rising Sun ..... (Wilkie)

not arrived

As appearances having been already given for these ships marked  
 the loss of the Intimations in these cases is of no great consequence

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Mistaken acknowledgment  
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Doctors Commons 21<sup>th</sup> April 1796.

The Schooner Lucy Nathaniel Treadwell Master

Mess<sup>rs</sup> Crickitt and Townley present their compliments to M<sup>r</sup> Heseltine, and beg leave to acquaint him that in consequence of their claim for the above Ship and Cargo being admitted and further proof of the property thereof having been ordered they have prepared the drafts of affidavits to establish the same and such Drafts have been perused and settled by their Counsel previous to their being delivered to M<sup>r</sup> Bayard, to be forwarded by him to America where the Proprietor of the Ship, and Cargo resides, and that by the advice of their Counsel they send copies of the said Drafts to M<sup>r</sup> Heseltine requesting him under the special circumstances of the case to lay them before His Majesty's Advocate for the purpose of knowing whether such further proofs if returned from America duly attested will be considered as sufficient for restitution.

Mess<sup>rs</sup> Crickitt & Townley would not make this application in a common case but from the total want of the usual primary evidence respecting the property captured at Martinique, and in the length of time which has elapsed since the event took place they conceive that the Captors will be desirous of treating the Claimants with more than ordinary accommodation and as it would take so very considerable length of time to procure from America additional proofs beyond those now submitted to consideration (should the latter upon their return be opposed) this measure it is hoped will not be deemed improper they more readily adopt this step as it may be the means of ultimately saving unnecessary expences to the Captors themselves.

M<sup>r</sup> Heseltine will please at the time he lays the enclosed before Sir William Scott to give him also the copy of the claim of M<sup>r</sup> Bayard and the protest annexed thereto heretofore delivered.

Guilford Street 24 May, 96.

42

Messrs J. Sullivan, Messrs L. C. Messrs L. C. Messrs L. C.

Gentlemen

Your note of yesterday is before me, the sum of £100 in the case of the Betsy, I think I mentioned to you I could not discharge without express authority from our Government as the case had <sup>not</sup> been decided - ~~the cases of Messrs. Laghari, Crookman & the prosecution which I have undertaken, are on a different footing -~~ The advances you have made in these are what I find it is usual to make to Proctors when a case is printed & set down for hearing, & therefore must be returned to you - Whenever I am furnished with the means by the U.S., I shall certainly make a point of reimbursing your those advances.

I remain, Gentlemen

Your most obedient Servant  
S. B.

The Schooner Lucy - Nathaniel Treadwell M<sup>r</sup>  
(One of the Martinique Cases)

W. H. Setline presents his compliments to Messrs. Crickitt & Townley & acknowledges the receipt of their Note inclosing Drafts of affidavits proposed to be exhibited in proof of the property of the Claimants of the above Ship & Cargo - & requesting M<sup>r</sup> H. under the special circumstances of the case to lay them before his Majesty's Advocate, for the purpose of knowing whether such proofs, if returned from America duly attested, will be considered as sufficient for restitution. - M<sup>r</sup> H. in answer begs leave to acquaint Messrs. Crickitt & Townley that altho' the request above mentioned was certainly of a very unusual nature, yet the case being attended with particular circumstances, he,

in compliance with such request, laid their ~~Cases~~ & the Papers before Sir  
Wm Scott & had a consultation on the subject - when it was thought improper  
to give any answer as to the sufficiency of the proposed Proofs in the present  
stage of the case, & more particularly as all the necessary parties to authorize  
any such consent or approbation as was required are not in England.

Doctors Commons

25th May 1796.

Dec 18 18 Sept 1796

Quilford Street 24 May 1796

43

Messrs J. Strahan, W. Rendel & Co.

Gentlemen

Your note of yesterday is before me. The sum of £100. in the case of the *Bulley* I think I mentioned to you & I could not discharge without express authority from our Government as the case had been decided. In those cases of Messrs Zachary Coopers & Co. the prosecution of which I have undertaken, are on a different footing. The advances you have made in these are what I find it is usual to make to Doctors where a case is printed & set down for hearing, & therefore must be returned to you. Whenever I am furnished with the means by the U. States, I shall certainly make a point of remembering you those advances.

I remain, Gentlemen, Your most Obedt. Servant.

Robert Slade Esq.

J. B.

Dear Sir,

Quilford Street 5 June 1796

Your letter of yesterday is before me. In answer I have to inform you that Bills to the amount of £5,000 have lately been transmitted by the Government of the U.S. to our Minister here, a proportion of which (but what proportion I cannot yet say) are destined to the payment of the costs incident to the prosecution of the claims & appeals under my charge. When these Bills, that have been accepted, become due & are paid, I shall discharge those Bills of costs you have sent me & proposed sending me. As to the extra-costs I shall submit to our Government the reasons you state for paying them. The Government I presume in this business intend doing neither less nor more than a private claimant & so far as I may be allowed any discretion in the expenditure of public money, I shall consider

myself as bound to be just, altho I cannot be generous.

I am sorry it has not been in my power yet to com-  
- pete the advance of \$20 in each case, on extracting the inhibitions as  
originally proposed. This done on the principle of "common usage" & of the  
obligation of our Government to do neither less nor more than a private claim-  
- mant. I shall always when furnished with the means, consider it my  
duty to add \$80 to the first advance, whenever a case is printed  
& set down for a hearing before the Lords of Appeal.

I remain,  
With great regard,  
Your most obed<sup>t</sup> servant

Sam Weston Esq.

London 3. June 1796.

45

had at my residence and at the residence of my friends in London and in the country

Sir,  
I thank you for your letter of the 1<sup>st</sup> inst. which came to hand this morning. We heard a day or two since of the melancholy fate of the Peggy, Capt. Hyer, from Philadelphia. We were glad however to hear that the bag of letters was saved, & have been expecting for some time by every Post since Wednesday

I shall cheerfully pay my proportion for any letters saved from the Peggy. I am glad to hear that the box addressed to me is saved & contains I find public papers. Whatever is reasonable shall most certainly be paid to the men who saved it. But as it is difficult to say what is reasonable, I will agree to pay what any indifferent merchant of London shall say is right. I should have been glad had it occurred to you to mention what compensation these persons demand

From your knowledge of the description of persons now in possession of these papers you must be aware that they are much disposed to overrate their services & to demand exorbitant compensations for moderate exertions. If however they will resign the box & it is sent to me, I will immediately honor your draught in their favour, if their charge is not unreasonable. Should it appear such, I will agree to submit it to any

indifferent Gentleman of respectability in London, & to pay whatever he should award -

I hope this proposal will be thought fair & right, & that the letters will be forwarded by Post, & also the box of papers by the coach, to be left at Holt Slades Esq<sup>r</sup> &c. 20 Banth Hill - Doct<sup>r</sup> Com<sup>r</sup>. Any unnecessary detention of these papers will diminish the claim of those persons to the compensation they have a right to demand & expect.

I remain, Sir,

with much respect  
your obedient servant.

Sam. Weston Esq<sup>r</sup>

London 9 June 1796

Sir,

I have received your obliging favour of the 7<sup>th</sup> & return you many & sincere thanks for the trouble you have had in preserving & sending forward the box of papers addressed to me, that was saved from the wreck of the Peggy. I shall cheerfully pay as you direct the expences incurred by you at Portland, amounts to £17. 6. to which I add £2. 4. 6 for Commis<sup>n</sup> horse here &c. on your own account so to make it 8 guineas - I regret much that another box of the same dimensions & containing the same description of papers, which the mate tells me was put on board for me, had not also escaped destruction & however I now think only of repairing the loss as soon as possible.

I remain,

your most obedient servant

Dear Sir,

Inclosed you have my Bills in the Farmer & Harriett which have been severally taxed by the Register of the Court as will appear by his report at the end

The sum taxed of the Farmer has arisen almost entirely from the Introduction of the Examinations on Special Interrogatories in the appendix which was printed, as is stated in the case, before the Lords of appeal had come to any determination respecting the admissibility of such evidence, and also their Lordships have since determined not to permit it to be read as evidence at the Hearing, the Council we retained on behalf of the Citizens of the U.S. have nevertheless thought fit, in several instances, to direct the same to be printed as part of the appendix, in hopes that a mere perusal of it would operate in favour of the American Claimants -

Under these Circumstances & that of the Bills being made out as they would be delivered to & paid by, a private Claimant, I beg leave to submit to your consideration the propriety of stating the matter to the Government of the U.S., with a view of obtaining an authority for payment of such Extra-Costs & as these are the first Bills I have the honor to hand you, I think it right to observe that it is usual with private Clients to discharge them immediately.

As there are many other Cases ready for hearing, the disbursement in which arising from the paid to Council, those of office, the printing Hope is run very high, I take the liberty on the same principle of Common usage to ask you for £80, on account in each Case in addition to the £20 agreed to be advanced on extracting the Inhibition.

I expect to be able to send you three other Bills in the course of two or three days & have the honor to remain with great esteem & respect

Your most humble Servant  
Rob<sup>t</sup> Slade

Doctors Commons  
4<sup>th</sup> June 1796

Samuel Bayard Esq<sup>r</sup>

The Secretary of State

London 18 August 1887.

46

Sir

The reasons assigned in ~~the~~ my letter to Mr King (of which the enclosed is a copy) will I trust justify the step I have taken in requesting permission to resign my present appointment. It is return once more to the United States. The business of this place has assumed of late a very different shape & become much more laborious than was contemplated at first. But when all the claims shall have come before the Commissioners, the duties of the agency will be greatly increased & I apprehend will require a more close & constant application than my health would admit. Hitherto I have endeavored to discharge the duties of my appointment with all the fidelity & attention in my power; but it appeared to me that I should have been highly culpable had I continued to retain a public trust to which my health would not allow me to discharge to my own satisfaction.

When to this consideration is added that of Mr. Bayard delicate & critical state of health I trust the President will approve of my abdication & I have to relate I will without delay appoint another in my place.

In the choice of a successor it may perhaps be expedient to seek for some qualifications different from those which have hitherto been deemed necessary - To general talent - industry & integrity it may be proper to add some practical knowledge of figures & accounts - He will probably receive a more formal commission & instructions different from those given me - He will no doubt be expressly authorized to assume the engagements which as Agent of the United States, I have been obliged to make with the Proctors for the prosecution of the causes under my care - This I mention because

Sup<sup>ts</sup> Bird & Savage & Bird are only liable to the Govt in the sum of £60. in causes depending before the Court of Admiralty - & in the sum of £200. in causes before the Court of Appeals - And altho' the Proctors consider the Government of the United States as their real creditor yet they consider me in the light of a hostage, & are personally liable for the costs in all cases in which I have given

and a claim or instituted an appeal. - On another's taking  
 my place they will therefore expect (as they have int  
 mitted to me) a formal assumption of the engagements  
 I have made. - That a pledge similar to that made  
 under the direction of Mr Jay, to Mr<sup>r</sup> Burd Lang (that  
 will also be made to them for the costs due them in  
 the several cases of claim or appeal in behalf of our  
 citizens - To the different claimants who have consti  
 tuted me their Special agent I shall write to inform  
 them that agreeably to the power of substitution which  
 their letters of attorney usually contain, I shall appoint  
 my successor my substitute unless they should otherwise  
 direct - It will afford me peculiar satisfaction to  
 learn that a suitable person has been early sent<sup>on</sup> to  
 take my place - I trust he will be able to embark  
 for this country by one of the returning fall ships  
 that we may have it in our power to return in the  
 Spring by one of the regular traders between this port  
 & Philad<sup>a</sup>. - By the present conveyance I have the honor  
 to send you a copy of the different Proctors and

also of my general acct with Sup<sup>ts</sup> B. L. W. & Co. - I am  
making these provisions conformably with the act of  
Sup<sup>ts</sup> - By an instruction of the 9. June - These accounts  
will explain I trust to the satisfaction of the President  
the manner in which the sums allotted for the pay  
of the costs in the different cases under my care, have  
been disbursed - The £1500 last received from Mr King  
has been distributed agreeably to his directions - £750 to  
Mr Stan. & Sup<sup>ts</sup> Laundry - Bush. & Trenchard £250 each  
This I learn is a part of the \$15,000 allotted by the  
act of Congress of March last. I have for some time  
looked with anxiety for the larger part of this appro-  
priation, as more than the whole yet is now due to the  
Proctors - By this act, I observe the President is "author-  
ized to advance a sum sufficient to defray the costs due  
in the several prize causes before the Courts of ad-  
miralty & of appeals so far as the Agents of the U. S. have  
become sureties for the same" The statements now sent  
forward will show how far as agent of the U. S. I am  
liable to the different Proctors for costs in the differ-  
ent cases under my charge - & I should be extremely glad

to have it in my power to settle all that is actually  
due, prior to my return —

While on this subject it may not be amiss to remark  
that in few other cases (as far as I have been able to  
judge) where heavy costs have been incurred, could the  
loss ultimately fall on the U. States — With very few  
exceptions, they will be reimbursed their advances

with interest by the Board of Admiralty. The time  
arrives when the American claims shall  
be taken from the British Court & laid before the  
Comptroller, the Proctors without doubt will  
expect their bills to be fully paid off —

The Court of Appeals have not met for a week  
or two past. nor is it probable they will again meet  
to hear cases, prior to next term, which will be in Nov.

I was in strong hopes that I should have been able  
to inform you of the Martinique cases having been  
determined by the Judge of the Admiralty, but on one  
pretence or another they have been postponed from  
week to week — At length however they are set  
down to be heard positively between the 12 & 16. of Sept.

The Judge will then probably decide as he has  
in former cases of the same class - direct the expenses  
to be restored - or the value thereof paid - but  
without costs or damages - for these we must enter  
an appeal, in order to entitle the claimants, according  
to the terms of the treaty to come before the Board  
of Commissioners & demand full & adequate compensation  
for their losses -

If there should be any service which  
I could render the public - or yourself in person  
prior to my return - you will have the goodness  
to mention it & I shall consider myself as very happy  
in being able to execute your commands -

I have the honor to remain  
with the great esteem & regard

Sir  
Your most obed.  
servt.

J. Amory

I have not yet  
 been able to  
 find out the  
 name of the  
 person who  
 was with me  
 at the time  
 of the  
 accident.

Book of the Olden  
man. May.

recd Oct 30. 1797.

Mr. Bayard designs - skins  
a further may be appointed.

The Secretary of State

London 5. Sept. 1797. 54

Sir.

I Inclosed I have the honor to send you a more correct copy of my account with Mess<sup>rs</sup> Bird Langage & Bird than the one sent by the Ellie Capt. Harvey - In one case (the Lump - Holmes) you will find a small difference in the costs as charged in the list of cases, of cost & damage & as paid to the proctor - This arises from Mess<sup>rs</sup> C. & T. having taken 16/6 from their bill after it had been delivered to me, & the balance, after deducting the costs, having been paid to the party - Having written by the Ellie & the W Penn. for leave to return home next spring - & that a successor might be appointed in my place - permit me Sir to express my anxiety that he may embark in time to reach this country by the first of next month.

I remain Sir

with great esteem & regard  
Your most obed<sup>t</sup> serv<sup>t</sup>

Saml Bayard

Sept. 8, 1797. no. Nov. 15.

With his account with  
first Savage & Bird

*Dr. Messrs Bird Savage and Bird in account with the Agent of the United States*

*Crs*

1795	To a bill received from Mr. Pinckney		1795	By Cash paid A. Slade	300. . . .
1795	due 23 Jan'y	500. . . .	May 16		
1795	To Cash rec'd of him & J. P. Esq?	1185. 16. .	21	By Cash to Crickitt & Townley	600. . . .
1795	To Bills rec'd of W. A. (Leas	1373. 18. 3	Sep. 15	By Cash to A. Slade	700. . . .
			18	By Cash to Crickitt & Townley	600. . . .
			Feb 29	By Cash to A. Slade	500. . . .
			Aug. 31	By Balance Carry'd forward	159. 14. 3
		<u>3059. 14. 3</u>			<u>3059. 14. 3</u>
1796	To balance brot forward	159. 14. 3	1796		
1796	To Cash rec'd of R. King Esq?	1000. . . .	Sep. 30	By Cash paid A. Slade	150. . . .
	To Cash of S. Bayard		Oct. 31	D. D.	600. . . .
	Sally-Choate	393. 10. 6		D. to A. Russell. Sally-Choate	185. . . .
	Farmer-Osburn	243. 4. 9	23	D. to J. Bush	200. . . .
		638. 15. 3		D. to J. Farguhar	200. . . .
1796	New York Packet-Shaw	14. 7. 2		D. to A. Slade in the	
	Fee - Adams	14. 7. 2		Sally-Choate & Farmer Osburn	430. 15. 3
	Killy-Huntress	14. 10. 6			638. 15. 3
	Commerce-Pope	17. 12. 2			
	Harriet-Bradbury	13. 5. 6			
	Dolphin-Barker	13. 18. 10			
	Success-Holmes	20. 3. 10			
	Sally-Grafton	11. 0. 6			
	Polly-Shillabar	17. 9. 8			
	Peggy-O'Bryan	17. 12. 10			
	Neptune-Burr	17. 12. 2			
	John-Mahood	20. 12. 2			
	Oliver Branch-Provest	16. 5. 6			
	James-Morris	14. 7. 2	226. 5. 2	July 29 By Cash paid Mr. Bush	226. 5. 2
	Rising Sun-Resiter	4. 19. 4		Aug. 1 By Interest charged by Messrs	
	Killy-Mercur	18. 15. 6		Bird Savage & Bird on £175. 5. 9	
	D. D.	16. 17. 0		the sum paid Mr. Farguhar above	
	Norfolk-Malsh	15. 10. 2		what they had in their hands to this	
	Delight-Sturgis	19. 4. 2		Account for 67 Days at 5%.	1. 12. 2
	Asby-Bradish	17. 14. 10			
	2 <sup>d</sup> Bill in the Appeals	38. 2. 4			
	Endeavor-Everton	13. 5. 6			
	Russel-Holbrook	14. 15. 6			
	Lark-Little	14. 3. 8			
	Betsy-Potter	13. 15. 6			
	Neptune-Woodbury	16. 9. 10			
	John-Wallis	15. 5. 6			
	Betsy-Wheelwright	15. 18. 10			
	Jemsha-Wood	15. 12. 2	250. 9. 10	July 29 By Cash paid Mr. Slade as Agent	250. 9. 10
		<u>2275. 4. 6</u>			<u>2232. 2. 5</u>

Balance brought over		£2275-4-6		Plant		£2252-2-5	
To Cash rec <sup>d</sup> of W. King		1500- - -					
Polly - Shillaber	38-10-2						
Nephew - Barr	38-10-2	77-0-4	Aug <sup>15</sup>	By Cash paid A. Stadi	77-0-4		
Ranger - Atwood	14-2-2					750- - -	827-0-4
Betty - Fair	17-1-6	31-3-8		18 By Cash paid R. C. Creswell	31-3-8		
Fox - Adams	12-19-0			" D <sup>o</sup> to J. Bush	250- - -		
Ann - Wright	10-2-8			" D <sup>o</sup> to Crickitt & Townley	250- - -		
Apollo - Hempster	13-8-10			" D <sup>o</sup> to J. Farguhar Esq <sup>r</sup>	250- - -		
Betty - Burr	14-14-10						
Three Brothers - Edgerston	16-10-10						
Bayonne - Lawton	14-6-6						
Betty - Trefethen	13-10-2						
Betty - Caulkins	15-3-6						
Columbus - Twitt	19-6-2						
Chance - Earle	12-11-9						
Chloe - Lord	13-13-2						
Dolphin - Graves	15-10-6						
Friendship - Pate	14-18-2						
Harriet - Brock	15-16-10						
Maria - Peoples	4-13-5						
Banger - Black	15-17-6						
Sally - Edgar	14-17-2						
Sally - Noyes	13-12-2						
Two Sisters - Calvert	13-8-10						
Union - Cottle	14-15-2						
Eleven Sons & M <sup>r</sup> Intire	14-0-8						
Polly - Knight	15-12-6						
Nancy - Ingersol	15-15-6						
Friendship - Downe	16-4-2						
Success - Holmes	45-11-0						
Proebuck - Wharf	14-14-3						
Vaspalono - Porter	36-5-0						
Amelia - Whittleby	14-2-2						
Fryal - Boyle	31-12-8	483-0-1	Aug <sup>15</sup>	By Cash paid Crickitt & Townley	483-0-1		
				By Balance in the hands of			
				Mess <sup>rs</sup> Bird Savage & Bird	23-2-1		

(Private)

Brunswick. 16. May 1798.

88

Dear Sir

By my father I have the pleasure to forward you the inclosed which was delivered to me by Mr Gore in London with a request that I should be particularly careful in having it safely delivered into your hands -

As soon as I have obtained my baggage & papers from the vessel in which I arrived I have seen my friends near New York I propose going on to Philadelphia should there be any circumstance however which renders it expedient that <sup>I should</sup> hasten to the seat of Gov. I beg you will have the goodness to acquaint me <sup>if</sup> that I may shorten my stay among my friends - I have the honor to be with great regard Dear Sir  
Yours most obed<sup>t</sup> serv<sup>t</sup>  
Saml Bayard

Letters of Samuel ~~A.~~ Bayard Esq.  
~~Minister~~ Appointed by the Pres.<sup>r</sup> of U.S.  
Agent of Claims & Appeals.  
1794 - 1797 —

To Samuel Bayard Esq.<sup>r</sup> Appointed by  
the President of the United States of America  
Agent for Claims & Appeals of

It having been made my duty to give you Instructions  
relative to your Agency, I think it expedient to give  
you the following for the present; and will add  
to them as circumstances may require. —

Agreeable to the Advice which you have already  
received from me, you will procure a proper Register  
and enter in it the Title of every Cause, and make  
the different Papers which belong to it, and minute  
from Time to Time every Step and Proceeding in  
the Cause. —

You will I think find it useful to class all  
the Cases according to their discriminating and governing  
principles & merits. Considering the number and  
variety of Cases, this cannot be hastily accomplished,  
much Examination Care and Judgement will be  
indispensable to performing it with accuracy; but  
without such a Classification there will be danger  
of Confusion — Order facilitates every kind of Business

Make a correct Statement of one or two Cases of  
each Class for the Consideration & Opinion of Council  
Take their opinions in writing, and send them to  
the Secretary of State. —

With respect to such of the Cases as in their Opinion  
may be prosecuted with a prospect of success. Put all  
the Cases of such Cases as speedily as possible into  
a State for Decision; but select one or two to take  
the Lead for formal Argument, to the end that  
the Decrees in those Cases may become Rules whereby  
to decide all others under similar circumstances. There  
can be no use in expending Time & Money in cases  
long Trials and labored Arguments to be prepared in  
great many Cases whose merits are essentially alike

If any one or more of the Cases cannot in the  
of Counsel be prosecuted with a prospect of success,  
you will nevertheless file the Claims & Appeals but  
not proceed further until you shall have sent  
Opinions to the Secretary of State, and received  
Instructions provided there be time, otherwise,  
will be best to give one or two of the strongest  
Cases a strenuous Trial even thro' the last Red  
and in the mean time take care that none  
the others go against you by Default.

You will find that in many of the Cases  
necessary Documents & Proofs are wanting. In such  
Cases state the Defects immediately to the Secretary  
of State, and when opportunities offer / write  
to the Claimants or Owners - point out very  
particularly what you want, and the manner  
in which the Business should be done; and if  
I should have Doubts, consult your Counsellors.  
You know that Commissions for examining Witnesses  
abroad may be had and may be expedient in  
Cases where Extra proofs may be had and be  
permitted - Try all means avoid Delay, and  
take care to be particular, perspicuous, and Exact  
in your Communications.

Money will from time to time be wanted  
defray the Expenses incident to the Suits; mention  
this to the Secretary of State, in order that  
proper measures for the purpose may be taken  
without Loss of time - The Funds I am prepared  
for those Expenses will not be adequate.

In some of the Cases, the Claimants or Owners  
will probably constitute Agents of their own to  
manage them, should Papers respecting such  
Cases be in your Hands, you will deliver them

to such Agents, taking their Receipts for the same. Cultivate a good Understanding with such Agents Be useful to them, and endeavour to dispose them to be useful to you.

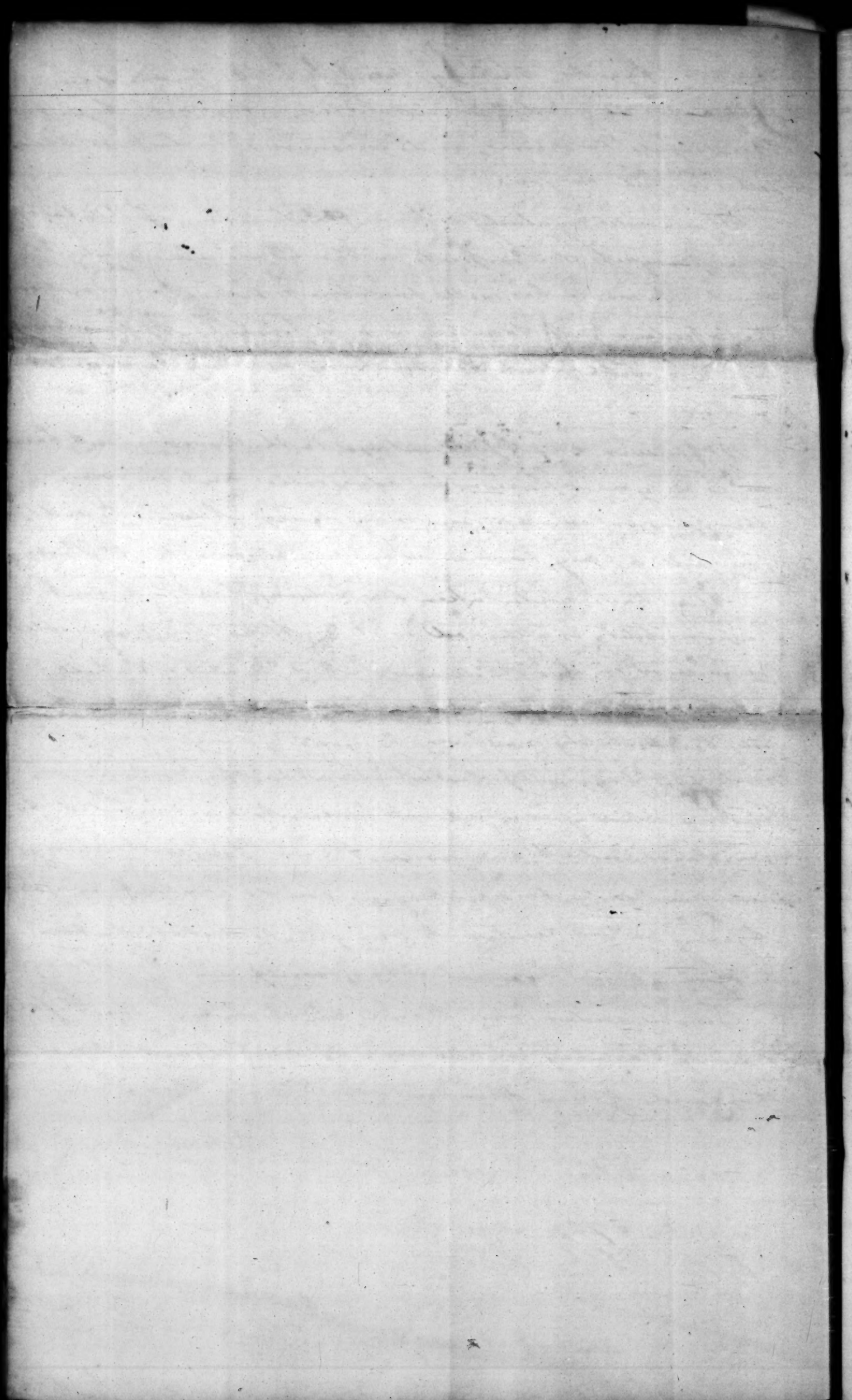
You will regularly inform the Secretary of State of your progress & Prospects in the Business; and I think it would be well to submit to his Consideration the Expediency of sending you a formal Appointment together with such Instructions as may be deemed proper. —

Whenever an Application to the Government here would in your opinion be advisable, and on every other occasion when you may desire Advice & aid, you will apply to me, or in my absence to Mr. Pinckney.

You have undertaken an arduous Task. Great Responsibility is attached to it. Altho' you have able Counsellors in Sir William Scott & Doctor Nicholl yet unremitting attention and Diligence on your part will be absolutely necessary to your giving even a moderate Degree of Satisfaction to the many persons whose important Interests are confided to your Care and Management. — You will always find me ready to assist you in so conducting your Agency as to render it beneficial & satisfactory to them and honorable to yourself. —

Given under my Hand at London the Fifth Day of January in the year of our Lord one thousand seven hundred & Ninety Five. —

John Jay



Sir

Philadelphia 16. July 1894. 3

The enclosed ~~copy~~ extract from the minutes of the Supreme Court of the United States I send you agreeably to your request, <sup>conveyed to me</sup> this, the the chief clerk for the department of State -

It requires however a little explanation which the following statement will furnish -

On the 2 June 1892. by virtue of a writ from Benjamin Morgan Esq. Attorney for Mr. Thomas Pagan a writ of Error issued from my office directed to "The Judges of the Supreme Court of the State of Massachusetts" to remove the proceedings had before them in the case of Stephen Hooper & Thomas Pagan -

On receipt of this writ of error, Francis Dana Esq. Chief Justice of the State of Massachusetts in a letter directed to the Chief Justice of the United States, suggested that it was informal in having been directed to the "Judges of the Supreme Court", instead of the "Judges of the Supreme Judicial Court of the State of Massachusetts". but that

if the Supreme Court of the U.S. should by  
rule direct the removal of the proceedings in  
case of Stephen Hooper v. Thomas Pagan.  
Supreme Judicial Court of Massachusetts, would  
consider of the return proper to be made to the  
writ of error, ~~and send them~~ issued in the  
case. In this state the business rested until  
February Term 1893. when Mr. Tilghman  
of counsel for the Plaintiff in error, instead of  
moving for a rule on the Sup. Judicial Court  
of Massachusetts to return the writ of error, together  
with the proceedings before them had in the  
case, thought it more expedient to read a certified  
copy of these proceedings, before them to ground an  
application for a second writ of error. When  
he made this application, Mr. Tilghman, moved  
to the Court that he did it merely in conformity  
with the instructions he had received, for this purpose  
and not with the hope of success as he knew of no  
grounds on which to rest his motions.

With great respect Yrs.

Randolph Esq. I am Sir - Your obd<sup>t</sup>. h. serv<sup>t</sup> Saml B. Bayne

London. 10. Sept. 1795. 4

Dear Sir.

I have this moment come from  
Doct<sup>r</sup> Commons, & finding the letter bag of the  
Harmony on the point of being taken from the  
Coffee house. I avail myself of this opportunity to  
informing you that the orders for sending in  
American & other neutral vessels laden with  
provisions, have this day been revoked.

I have the honor to be

with much respect &c.

P.S. I have rec'd 2 short  
letters by the Camilla.  
but no general letter -  
we are then in the dark  
respecting the treaty.

Y<sup>r</sup> S<sup>r</sup>

Y<sup>r</sup> am most<sup>ly</sup> serv<sup>t</sup>.

Sanctuary

Edmund Randolph Esq.

Account to 10. 10. 10. 10.

Dear Sir,

I have the pleasure to inform you that the order for sending in  
American letters and notes will be sent with  
the first of the month of the following  
month. I have the pleasure to inform you that the order for sending in  
the first of the month of the following month.

I have the pleasure to inform you that the order for sending in

the first of the month of the following month.

I have the pleasure to inform you that the order for sending in

Yours very truly,  
James M. Smith

I have the pleasure to inform you that the order for sending in  
the first of the month of the following month.

I have the pleasure to inform you that the order for sending in

Philadelphia 25<sup>th</sup> Oct. 1794.

Dear Sir

It was with pleasure that I yesterday learn'd from you that an agent on the part of the United States, would be sent to Great Britain, for the purpose of entering appeals from the decrees of the British Admiralty Courts in the West Indies, to the Courts of ultimate jurisdiction in Great Britain and of prosecuting there, the claims of the American Merchant. And I feel myself honor'd by the intimation, that I have<sup>been</sup> regarded as a suitable person, to superintend this business.

Agreeably to your request, I have weigh'd the matter deliberately, and from diligent enquiry and attentive consideration have satisfied my own mind on the subject of the terms, on which this appointment can be accepted - The most moderate on which the service can be undertaken, without inducing such a sacrifice of private interest, as the government, could not wish, nor my circumstances justify; I have now the honor of stating, to you.

Calculating on a total surrender of professional business - on the impracticability of again resuming it for some years after my return - and justly appreciating the dangers and inconvenience to myself & family in the voyages, to and from Europe; I expect a specific compensation of six hundred pounds, Pennsylvania currency, whether the business be accomplished in one year or any less space of time.

Should it detain me abroad, for a longer period than one year, then for such period the compensation

will be at the rate of Six hundred pounds of the aforesaid

In discharge of all my expenses, an allowance of  
Six dollars per diem - this to commence from the time  
of my landing in Great Britain, and to continue, so long as  
I remain engaged in the service of the Public -

The charges of two and a half, cabin passages,  
and from Europe, I expect will be defrayed by Government

The above terms, I am persuaded, on enquiry and  
consideration, you will find as moderate, as the nature  
& interests of the agency will admit - To establish a  
pensionary allowance, would probably operate as great  
an injury to the general mercantile interests, as it would  
my own. The foregoing terms, if acceded to, I shall  
as a full indemnification for the sacrifices, necessarily  
incident to the proposed agency; and as a compensation  
for the hazards, solicitude, and exertions incident to the  
undertaking.

I have the honor to be

with respect &c &c

Sir

Your most obedient

and most humble servant

Saml Bayard

The Hon<sup>ble</sup> The Secretary of State.

Saturday 25. Oct. 1794.

6

Dear Sir

Agreeably to your request, I send you the enclosed communication, containing as I apprehend them, the terms on which I undertake the proposed agency to Great Britain. Should any thing be ineaplicitly stated, or misunderstood between us, I beg to be corrected. At our second interview your engagements were too pressing to admit of my stating to you fully from the information I had received, the reasons, I had to believe the terms proposed by you, too low to make the business an object equal to the sacrifices it would induce. On the footing I have placed it in the within communication it will satisfy myself and friends, I cannot give umbrage to the public.

The expences of the voyage, in the hurry of the last interview escaped attention, & it is my wish - I find the general sentiment is, that considering the uncertain duration of my absence abroad, my little family ought to attend me, at the charge of the authority, that employs me.

But to prevent any misunderstanding on this subject. I limit the expence to two and a half cabin passages.

I trust that considering my moderate circumstances, & knowing from personal experience the feelings of a husband & a Father you will not curtail this reasonable demand.

In a word, compare the foregoing terms with those allowed to the late Agent sent to the West Indies, - and how moderate will they appear.

The one undertakes a voyage of some hundred - the other some thousands of miles - the one expected to be absent at three or four months - the other may be absent <sup>in a foreign country</sup> as many. The one has a gross allowance of 2,000 \$ll. - the other of 1,000 - the one a full Diem compensation of 10 - the other of 6. A vessel chartered at a great expense, to convey Nations one - the other expects an allowance of but 2 1/2 per

You cannot, I persuade myself my G<sup>d</sup> Sir, expect  
any in this business a great, liberal, & flourishing nation  
"screw me down" (to use your <sup>own</sup> expression) below the al-  
moderate terms. I have been assured by one of the men  
for whom this agency is to be undertaken, that had it  
with them to employ the agent, they would probably  
have made a more ample compensation, than is <sup>now</sup> contem-  
plated. What I have demanded will however, equal my  
wishes, & satisfy the expectations of my friends but sure I am  
that life would not —

On enquiry I find that the Adriana is the  
the first vessel that will leave this port for London  
or to sail on Monday week. I have accordingly taken our  
passages in her, & expect to embark at New Castle on the  
week - By this days mail. I have written to the 2 of the  
Judges of the Sup. Court explaining the reason of my leaving  
the U.S. - requesting their concurrence and approbation, &  
apprizing them of my having provided a suitable <sup>person</sup> to de-  
in my place as Clerk of the Court, approved by yourself  
by the ~~Atty~~ General - I shall write to the others to morrow

I should be happy to learn whether any arrangements have  
been made between Mr Hallam and yourself respecting  
the house, which I occupy at present. - On this subject, others  
of more importance I shall do myself the honor of waiting  
on you at any hour, most agreeable to you, when you  
will be least liable to interruptions, from other quarters -

I have the honor to be  
with sentiments of sincere  
gratitude & respect

Dear Sir

Your very obed<sup>t</sup>. &c. &c. serv<sup>t</sup>

Sam<sup>l</sup> Bayard

Edmund Randolph Esq.

The Honorable Edmund Randolph Esq.

Market Street

May 5. 1800

United States to  
To Samuel Bayard Esq.

To two and one half passages to London  
at 30 guineas each - in D<sup>ts</sup>. £350.0

To one half years compensation — 300.0

To one half years expenses to be accounted for 1095.0

£2245.

Mr Bayard would be glad, if possible  
to receive the above in London

Received — day of — 49 — on account of the  
United States of America, from Samuel Bayard agent  
of claims & Appeals for the said <sup>U.</sup> States, by the hands of  
Messrs Bird Savage & Bird the sum of — for costs &  
charges incurred in the prosecution of sundry <sup>suits</sup> ~~cases~~  
before the High Court of Appeals in prize causes, or  
before the High Court of Admiralty, of Great Britain  
in behalf of citizens of the said United States —  
A.B.

to Mr. Bayard.

Copy sent to Mrs. Bird  
Chicago & Bird.  
7th May 1895.

Extract from the instructions given by the  
 Secretary of State for the U.S. to S. Bagges Agent  
 of claims & Appeals - dated 7. Nov. 1794.

" You will proceed without delay to London  
 & immediately on your arrival there you will  
 wait on Mr. Jay the Envoy of the U.S. You will  
 inform him that you have been sent upon the  
 grounds just stated, & that you are instructed to  
 conform yourself in all things to his directions."

" Should Mr. Jay be absent you will  
 address yourself to Mr. Pinckney our Minister  
 Plenipotentiary." —

one to Mr. Hayward  
by Mr. Hayward 194.

Delaware below Newcastle—  
10<sup>th</sup> Nov<sup>r</sup> 1794.

Dear Sir

I have the satisfaction of assuring you that the packet for M<sup>r</sup> Jay, sent to the Pilot boat & that has occasioned us so much solicitude, is at present safe in my possession. The care of Captain Fitzpatrick was the cause of my embarrassment at Chester. He had prudently laid it in his own chest, which however he unluckily neglected to examine, yesterday when I went on board.

Be so good as to inform the President that I have received the books forwarded by M<sup>r</sup> Danbridge, and directed to Sir John St. Clair & to M<sup>r</sup> Arthur Young, & hope to deliver them my self to these Gentlemen. Please also to present him my most grateful acknowledgements, for having mentioned me to them.

I have the honor to  
Dear Sir

with sentiments

of perfect regard & esteem  
your most o<sup>b</sup>d<sup>t</sup> serv<sup>t</sup>

Sam<sup>l</sup> Bayard

Randolph Esq<sup>r</sup>

The letter to Mr Fox  
is also safe.

Dear Sir  
10th Decr 1774

Dear Sir

I have the satisfaction  
to hear that the vessel for the  
last that has arrived in the  
at present is in the harbor.  
I have the pleasure to hear  
that the vessel is in the harbor.  
I have the pleasure to hear  
that the vessel is in the harbor.  
I have the pleasure to hear  
that the vessel is in the harbor.

I have the pleasure to hear  
that the vessel is in the harbor.  
I have the pleasure to hear  
that the vessel is in the harbor.  
I have the pleasure to hear  
that the vessel is in the harbor.  
I have the pleasure to hear  
that the vessel is in the harbor.

I have the pleasure to hear  
that the vessel is in the harbor.

In the Supreme Court of the United States.

United States'vs

At a Supreme Court of the United States held at Philadelphia, the same being the present seat of the National Government, on Saturday the sixteenth day of February in the Year of our Lord One thousand seven hundred and ninety three, before The Honorable John Jay, Esquire, Chief Justice, and The Honorable William Cushing, James Wilson and John Blair, Esquires, Associate Justices of said Court; among others the following proceedings were had (vizt.)

Thomas Pagan

v.

Stephen Hooper

Mr. Tilghman of Counsel for the plaintiff moved for a second writ of Error in this Cause to remove the proceedings had in the same before the Supreme Judicial Court of the State of Massachusetts.

The Court having heard a Copy of the Record in this Case read and having considered the same are of opinion that the writ applied for ought not to be granted.

London 15<sup>th</sup> Dec. 1794.

13  
20th

Sir

On the day we reached Falmouth  
I wrote you a few hasty lines by the November  
Packet, then on the point of sailing for America,  
only to announce our safe arrival in Great Britain.  
The next day we set out for London where we  
arrived ~~last~~ ~~evening~~ on Thursday evening last.  
Without a minutes delay I wrote Mr Jay a note  
forming him of my arrival, & of my having  
patches for him, from yourself. Mr Trumbull  
immediately called on me and conducted me to Mr Jays  
dgings. I delivered him your despatches, & sent  
me for Mr Pinckney to him also the same evening.  
I have every day since (Sunday excepted) made  
a point to see Mr Jay. From conversations  
th him, I find it has been wholly out of his

power to pay any attention to the details of  
business with which I am charged. (Don't know)  
Mr Johnson has acted as agent in several cases  
all of which except two, have been brought to a  
decision; but in none of them he informs me, how  
any important or leading points been settled.

Mr Turnbull is at present employed in making  
out a list of all the papers that have been  
in Mr Jays hands. For these I am to give  
receipt when delivered into mine. So soon as  
other engagements will admit, Mr Jay proposes  
introducing me to the Council and Proctors, and  
on the part of the United States, explaining  
the object of my appointment to them, & then  
surrendering up to me the particular charge of  
this business. I am happy to find that the  
information I am instructed to procure, respects

the mode and place of entering appeals & claims.<sup>14</sup>  
the nature of the evidence to support & prosecute  
these, has already been furnished by Sir W<sup>m</sup> Scott. &  
Nichol, & transmitted to you by Mr Jay.

Whatever further information connected with the  
business I am charg'd with, I can collect, shall  
be forwarded with care and expedition - As yet  
I have been able to procure none of any moment  
by the <sup>last</sup> ~~last~~ <sup>so on</sup> ~~so on~~ next opportunity to America, I hope, <sup>by</sup>  
able to <sup>us</sup> ~~to~~ communicate such as will be full &  
satisfactory. [From all I have seen or  
heard however, thus far, I am happy to say that  
it appears to be a sincere disposition in the  
constituted authorities here, to do us full, & impartial  
justice - ] I have the honor to be  
with anxious esteem

Yours very obed<sup>t</sup> serv<sup>t</sup>  
Saml Bayard  
Secretary of State.

The Hon<sup>ble</sup>

Samuel Randolph Esq.

Secretary of State.

At the Annapolis

Philad<sup>a</sup>.



rec'd March 95

London 20. Dec<sup>r</sup> 1794. 15

Sir

I received a note from Mr Jay dated the 17 inst. informing me that "for conceiving a stipulation on the part of the United States to be responsible for costs in the cause committed to my management, would save much trouble and avoid the necessity of the security usually required in each case," he "had that morning conversed with Lord Grenville on the subject - who promised that he would take it into immediate consideration - no answer has yet been received. As soon as Mr Jay receives one, he has assured me that he will apprise me of it.

If Mr Jay's proposition is acceded to much expense & trouble will be saved.

but a doubt has occurred to us all which is  
am I authorized to enter such security? Can  
the Executive of the U. States give such author  
Must not Congress make provision for the costs  
those cases where <sup>the</sup> claim is dismissed or in those appeals  
where the judgment below is affirmed?—

You will consider this matter, & I am sure it  
is proper in it. If Government <sup>will</sup> agree that my  
security shall <sup>be</sup> given for costs, in all the cases in  
my charge—no difficulty will be raised on our part  
as expedition is our object. Indeed unless there  
some interposition on the part of government  
facilitate this business. I am assured by a proper  
Gentleman of note, that 7 years will not be sufficient  
for the hearing & decision of the <sup>American</sup> claims & appeals for

I hope by the next vessel for New York

on Philadelphia, I shall be able to give  
you more information, than can be furnished  
at present.

I have the honor to be

Sir

Yours obt. Servt.

Saml Bayard

The Secretary of State

Newport 17<sup>th</sup> March

My Dear Sir,

Yours  
are  
very  
truly  
yours

Samuel Randalph Esq

Secretary of State. U.S.

Philad<sup>a</sup>

Recd March 17

London. 26. Dec<sup>r</sup> 1794. 17

Sir,

The Aurora's delay gives me the opportunity of writing you once more <sup>by her</sup> & of furnishing you some information which may prove interesting to the American Merchants.

On the evening of the 23<sup>d</sup> inst. I received a note from M<sup>r</sup> Jay, inclosing a letter of introduction to Sir W. Scott. & Doctor Nichol. The following morning, <sup>I made</sup> ~~an~~ enquiry & found that D<sup>r</sup> Nichol "had left town for a few days. I waited then on Sir. W. Scott but had not the good fortune of finding him at home. Upon which I wrote him a line, inclosing Mr Jay's note, & took the liberty in pursuance of one of your instructions to propose to him the following queries, to which I requested as early an answer as might consist with his

other arrangements. • For Mr. Fyfe  
"May claims for captured property

and appeals from the decisions of the Vice admiralty  
Courts in the W. Indies in all cases be entirely  
prosecuted in Great Britain?

What notice must be given to the captor  
of the claim or appeal?

Where there has been a capture by one of  
his Majesty's ships in company, where it is  
may or must notice be given of claim?

I yesterday received Sir William's answer  
to my note which contains the following answers  
to my queries. —

"Claims for captured property, and  
appeals from the Vice admiralty Courts in the  
West Indies may in all cases be entirely prosecuted  
in Great-Britain."

18  
Notices of claims or appeals are always given by  
service of the Monition or Inhibition upon the  
Captor or Captors, or their Agent (if any is appointed)  
and upon the King's Proctor, who is made a party  
in all cases of capture by King's ships, & who makes  
out his business on being served with the monition  
or inhibition as soon as possible to find out  
the Agent or Agents."

"In cases of capture by more King's ships than  
one, the notice should be served if possible on  
the actual Captor or his Agent, but if that  
cannot conveniently be done, a service upon  
any of the joint Captors or their agents would  
be sufficient to found proceedings, or a service  
upon the Commander in chief or his Agent -  
And this latter is particularly the course to be pur-  
sued if it cannot be found who are the particular  
captors."

captors; the claimant alleging his inability  
specify who were the captors, but averring  
on oath his belief that the capture was made  
by some one or more of the ships of that sq

Mr Jey has just received a note from Messrs  
Savage & Bird. Bankers in this city offering to be  
security on the part of the United States for the  
incidents to the prosecution of the <sup>American</sup> claims and others.  
He has accepted this offer, - has given Lord Grey  
notice of ~~the~~ the same, - and is preparing  
instrument of indemnification for their security  
to be signed by me. -

I have the honor to be  
with sincere respect Dear

Sir  
your obedient &c

The Hon<sup>ble</sup> The Secretary of State.

Saml B. Jey

Payard Jan. 26 Dec. 94  
recd 26 March 95

New Brunswick (N.J.) 20 Jan<sup>ry</sup>. 1808<sup>19</sup>

Sir

The inclosed Memorial which I have the honor to forward to you, has been sent to me by the Memorialist for the purpose of obtaining a settlement of his demand against the U. States.

The facts therein stated are correct so far as my knowledge extends are certainly correct.

When W. Slade was first engaged to institute claims & appeals in the High Court of Admiralty & in the High Court of Appeals, by authority of the Government - & in behalf of the Citizens of the U. States, I certainly did agree with W. Slade (with the approbation of W. Jay) that

that he should prosecute these claims & appeals in  
behalf of our Govern<sup>t</sup> & its citizens on the same  
terms - & that he should be paid in the same  
manner, as in cases which he conducted for  
individual claimants, or their special agents

It having been represented to me, that  
consequence of the sums which in the progress  
of a suit a Proctor was oblig'd to disburse for  
counsel & Registrar's fees & it had become the  
variable practice of private suitors, to pay, in each  
case, the sum of one hundred pounds, to the  
proctor, in advance; I did therefore under the  
direction of Mr. Jay, agree with the several  
to whom the prosecution of the American claims  
appeals had been entrusted, that they should  
be paid in the manner stated in the memorial

But in consequence of my not receiving timely remittances from the U.S. to meet this engagement, I well remember Mr. Stades having often suggested the embezzlements he was under from this circumstance, & that on several occasions he had been compelled to borrow from his friends on interest those resources which were indispensable to <sup>the</sup> prosecution of the American appeals.

The present demand it seems is for what are termed the extra costs of suit - such as cannot legally be charged against an adverse party, but such as it is the unquestioned right of the uniform practice of the Proctor to demand & receive from his client - The British Government considered as an adverse party could only be liable for the taxed costs. There have been

paid with punctuality & to a large amount.  
Our government has thus had very considerable  
sums refunded that were advanced at an early  
stage of this business, the mutual reimbursement  
of which was long considered as extremely unequal.

For these extra costs necessarily incident  
to the prosecution of the American claims & for  
the Proctors had no other security than the  
& good faith of our Government. - On this they  
did rely & I always considered it as a pledge  
to compensate them for their extra services  
advances in behalf of the U. States, inasmuch  
as on no admitted principles or practices could  
they be charged against the private Captors  
the British Government.

Considering the present demand to be  
as just, & one, which if rejected, might injure

21

affect the character of our Govern<sup>t</sup> with a  
class of gentlemen, who from their peculiar  
station & connections, have it greatly in their  
power to advance or to embarrass the interest  
of ~~the~~ <sup>many of</sup> ~~our~~ fellow citizens, I earnestly  
forebear cherishing a hope that it will receive  
the sanction of the President of the U. States.  
I am honorably discharged —

Peculiar domestic circumstances  
rendering it highly inconvenient for me to  
leave home at this time, His Honor Judge  
Paterson has been so obliging as to promise  
me that he will confer with you on this  
subject on my behalf — Should any  
personal attendance at the seat of Government  
however be deemed necessary for the purpose

of making any further explanations respecting  
the present claims, any intimation to this  
effect I shall cheerfully obey as soon as  
the circumstances of my family will admit.

I have the honor to remain  
with the highest respects

Sir

Your most obed<sup>t</sup>

knob<sup>t</sup> h<sup>l</sup> serv<sup>t</sup>

Saml Bayard

The Honorable

James Madison Esq.

Secretary of State &c.

London 2 February 1795. 22

Sir

I wrote you three several Letters by the Aurora  
which sailed from hence a week or two since, a Duplicate of  
of them I enclose at present

By the Molly that is expected to sail shortly  
Philadelphia I shall be able to communicate some  
information in regard to the Business under my Care

On Tuesday the 6<sup>th</sup> Instant I received from Mr Jay  
Instrument authorizing and requiring me to pledge the Faith  
of the United States to Messrs Bird Savage & Bird for the  
reimbursement of such Sums of Money as they might  
advance on the Account of the United States in the prosecution  
of the Claims & Appeals here entered. ... on the following Friday  
I executed an Instrument of Indemnity in pursuance of the  
instructions received from Mr Jay from whom I understood Copies  
of the same would be forwarded to you.

On Thursday the 8<sup>th</sup> Instant I received from Mr  
Jay Instructions relative to the Duties of my Agency, from some

Paragraphs in these Instructions I conclude that Mr Jay did  
propose sending you a Copy of them - I shall therefore extract from  
them only such parts as I think material for yr Information  
He begins with directing me "to procure a proper Register and  
enter in it the Title of every Cause and note the different  
Papers that belong to it and minute from Time to Time every  
Step and proceeding in the Causes"

The first part of this Instruction I have already  
executed I have procured a Register in which every Cause will  
be entered and every Proceeding in the same will be carefully  
minuted. - Mr Jays <sup>next</sup> Instruction is "to class all the Cases according  
to their Discriminating Circumstances Governing Principles  
merits" - "considering the Number and Variety of Cases" &c.  
"this cannot be hastily accomplished" - much Examination and  
Judgment will be indispensable to the performing it with  
Accuracy."

To perform this second Instruction with propriety  
previous Obedience to the first is indispensable; as soon as  
I have every Case entered and its leading Features marked I  
must appeal to be entered in every Instance when the Time  
appealing has not expired to save the Trouble & Expence of a separate  
Application for Leave to Appeal. - I shall then make a

Distribution of Cases into Clauses and agreement to another  
"make a correct Statement of one or two Cases of each  
for the Consideration & Opinion of Councils - take their Opinion  
writing send them to the Secretary of State."

As further instructed by Mr Jay I shall "in all  
Cases when Documents & Proofs are wanting state the Defects  
immediately to you, and when Opportunities offer write also to the  
Claimants," but as some Time must elapse before  
I can have ascertained the Proofs that must be forwarded in  
addition to those already in my Possession in all the Cases under  
Charge I think it expedient to send you a Statement of the  
Evidence that in general is requisite for the Prosecution of a Claim  
appeals, that the Merchants of the United States who have forwarded  
their Papers may be informed in what Respect their Proofs are  
sufficient, and those who have not may without Delay obtain  
a complete Set of Papers for the Prosecution of their Suits.

The Proofs generally necessary for this Purpose are  
Evidence of the Claimants or appellants being Citizens of the  
United States at the Time of the Capture of their vessels or  
Property  
Proof of the vessel & Cargo, or part and what part, being their  
Property.

In order to which it is in most Cases necessary to forward  
1 The Protest made by the Master, Officers & Men belonging to the

replied

- 2 Copies of the Ships Papers on board at the Capture.
- 3 Copies of Letters, Invoices, Bills of Lading &c. relating to the Property claimed
- 4 Certificates of reputable merchants of the value of the Articles on Board at the Time of the Capture.
- 5 Statements of the Loss sustained, the Expenses incurred & the Costs of Suit that may have been paid
- 6 The policies of Insurance, or where they cannot be had Copies of them

These should all be proved on the Oath or Affirmation of Disinterested persons, when that can be done, and where it cannot by that of the party concerned before some Magistrate & a solemn Public Proof of the Office & Qualification of such Magistrate or Notary Public should be made under the Hand Seal of a British Consul - Clerk or Prothonotary of a County or Supreme Court of a State, of a District or Circuit Court, or the Supreme Court of the United States or under the great Seal of a State.

In Cases of Appeals - authenticated Copies of the Proceedings in the Vice Admiralty Courts together with the Matters of Evidence above described should be procured & forwarded as soon as possible

Whenever there has been a Condemnation in the Vice Admiralty Courts abroad, without a Claim having been

24

irregularly interfered - there both a Claim for the Property  
and money, and an appeal from the Sentence complained of  
must be entered here, ~~in the High Court of Appeals.~~

Mr Jay in his Instructions says "money will from  
Time to Time be wanted to defray the Expenses incident to  
the Suits, mention this to the Secretary of State in order that  
proper measures for the purpose may be taken without loss  
of Time - the Funds I am preparing for that purpose will  
not be adequate."

What the precise Sum may be that will  
be necessary it is impossible at present to determine, as I cannot  
yet take the number of Cases in which Claims or Appeals  
will be entered.

The Costs I am informed by the Proctor  
will on an average amount to £250. per Case, and there it will  
be necessary to disburse before Justice can be obtained for the  
American Claimants - Suppose there should be only 300.  
Cases there would then be a Sum of no less than £75,000  
at least necessary - this is an enormous Expense indeed  
and I know it will strike you and every corp of our fellow  
Citizens to whose knowledge it may come with astonishment  
that it is Right that it should be known - In Jamaica  
Costs paid by the Claimants in the Cases of the Sampson

Captain Barney continually exceed £700. Starting

Mr Jay after concluding me "by all means to avoid all charges," regularly to inform you of my progress & prospects in the Business, which I shall unquestionably do by every opportunity that presents itself; and he then adds, "I think it would be well to submit to his Consideration the Expediency of sending you a formal appointment together with such Instructions as may be deemed proper"

To this Mr Jay subjoins "you have undertaken an arduous Task, great Responsibility is attached to it, Altho' you have able Counsellors in Mr. Scott & Dr. Smith yet unremitting attention & Diligence on your part will be absolutely necessary to giving even a moderate Degree of Satisfaction, to the many persons whose important Interests are confided to your Care," - These Observations have thus full weight and Influence on my mind - I am aware of the Importance & Extent of the Business entrusted to my Charge - This but serves to animate my Attention & Diligence - I now devote entirely to this Business, and the mornings here comprehend the whole Day.

I hope soon to get the Papers arranged & registered, and in such as have complete Papers, the

Claims & appeals entered and proofs issued.

Energy and Despatch will be used to get our Cases ready for a Hearing, as early as possible, after which it will remain with the Government of this Country to expedite or retard the conclusion of the Business under my Direction.

I have taken lodgings in a part of the City, way of access to my American Brethren favorable to Business from being removed a little from the noise and bustle of the Town, it is in Hatton Street No 50. about a minute's walk from one of the great thoroughfares that connects London and what is called the West End of the Town - The Rooms I have taken unfurnished, but I have been obliged to furnish and use an Office - this step I find indispensably necessary to getting forward with Expedition. I am attended here daily by one Procter with whom this term I expect Business will soon be put in Train.

There were Documents in a number of Cases forwarded to me and a List of the same made by Mr Wagner but find in the two last Cases the Documents were not forwarded probably was intended - the vessel names in the Ship Henry & the Brig Hannah.

In a Letter to Mr Jay of the 27<sup>th</sup> of

January I mentioned to him that "there" <sup>were</sup> several agents of  
American merchants in Town, who had under their care  
some Cases of Appeals & Claims who had requested me to  
sponsor the Duration of those Causes & to prosecute them at  
the Expense of the United States but that I declined doing  
until I received his express Instructions on the Subject  
in his Letter of the 28 January in answer to the above  
He says - "in my opinion it will be proper for you to state  
this application to the Secretary of State and to be directed by  
such Instructions as He may send you relative to it - They  
"Claimants are now prosecuting those Causes, by their own  
"Agents perhaps from preference, and I much doubt the  
"propriety of your sponsoring those Causes at present &  
"the spontaneous application of those Agents. The United  
"States will doubtless conduct their Interposition in favor  
"of Claimants on such Principles as shall be just & proper  
"It will probably not be long before their arrangements &  
"Orders will be perfected & communicated to you"

Principles in such Appeals as have been already  
entered would have been sent by the present Conveyance, &  
as this packet goes there several hands & before it will  
be round the Wilmington Packet not see the master, &  
though

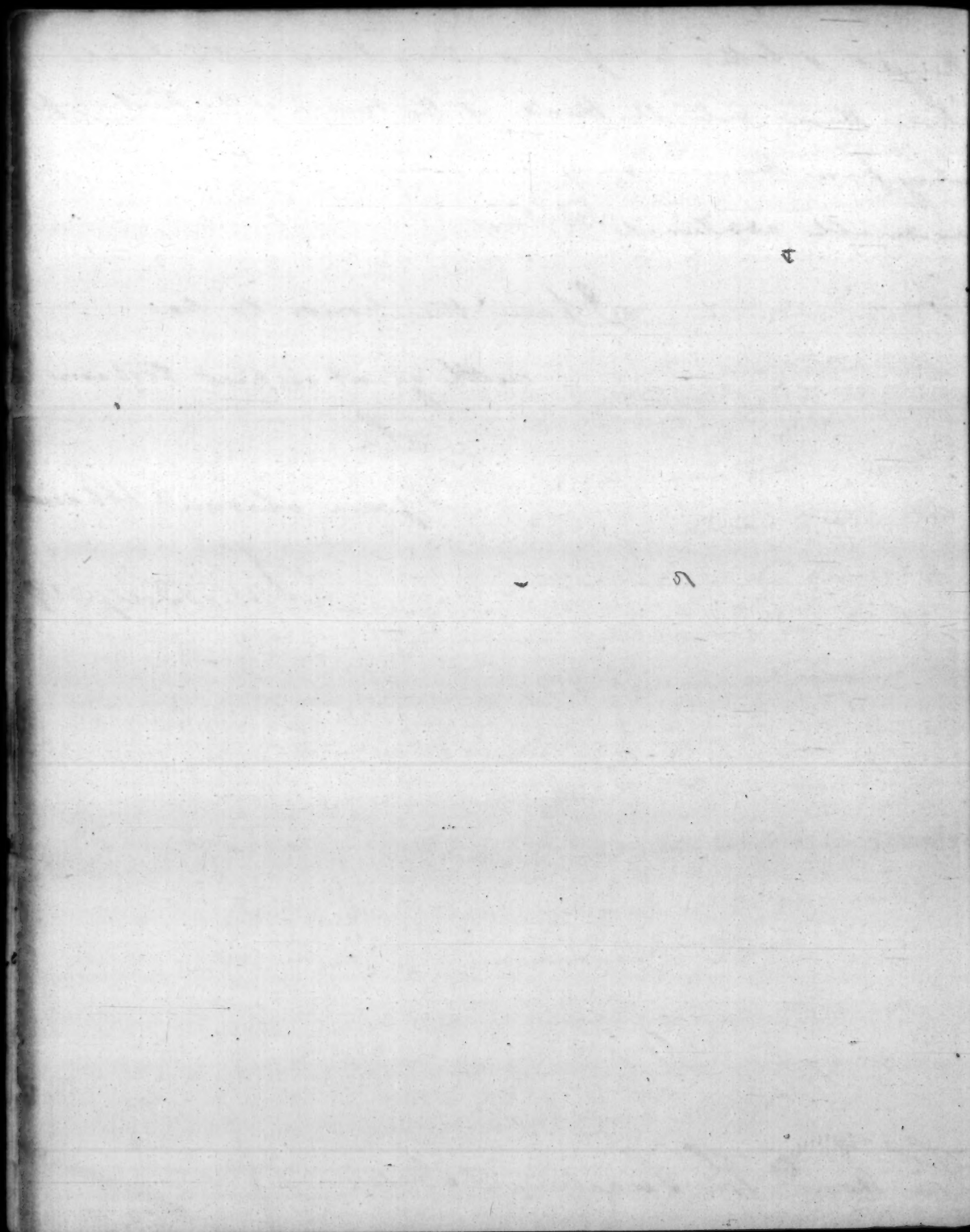
26  
I thought it better to defer sending them until I could  
deliver them into the hands of the master of the first ship  
sailing from hence - as any misarrangement would occasion  
considerable additional delay.

I have the honor to be  
with great respect & esteem  
Sir

Your obedient & devoted

Saml Bayard

The Hon<sup>ble</sup> The Secretary of State.



Tuesday the tenth Day of February in  
the Year Four Lord one thousand seven  
hundred and ninety five at Council Chamber  
Whitehall

Present Earl of Mansfield Lord President of  
the Council

Lord Auckland

Sir Rich<sup>d</sup> Pepper Arden K<sup>t</sup> Master  
of the Rolls

Sir William Wynne K<sup>t</sup>

Dudley Ryder Esq<sup>r</sup>

In the presence of Robert  
Jenner Notary Public one of the Deputy  
Registrars

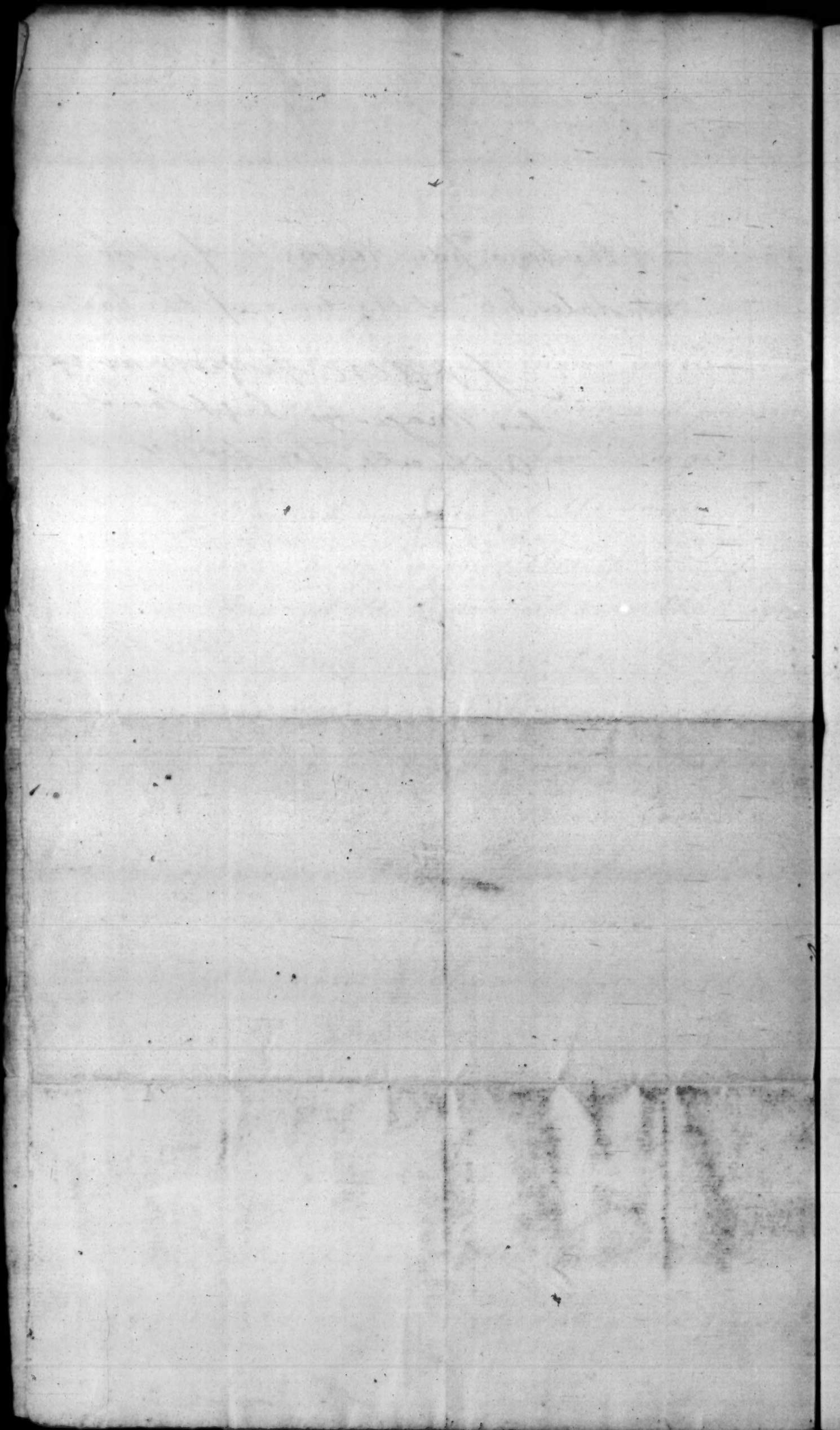
S<sup>r</sup> Jean de Lome... Marin Voisin M<sup>r</sup> For further  
Cresswell Made Ngostling Cooper - } Informations  
and Sentence

The Lords having heard further  
Informations and Advocates & Proctors on  
both sides as to the Appeal of W<sup>m</sup> Constable  
by Interlocutory Decree pronounced for the  
said Appeal reversed the sentence in  
respect

respect thereto appealed from and retained  
the principal Cause and in the said  
Cause admitted the Claim given on his  
behalf in the Court below and pronounced  
the Goods claimed to have belonged as  
claimed and decreed the same to be  
restored or the value thereof according to  
Account Sales brought into the Registry  
to be paid to the said Claimant for the  
use of the Owners & Proprietors thereof  
but rejected the Prayer of the Captors  
for Freight upon the said Goods & their  
Lordships having heard further Information  
& Advocates & Proctors on both sides respect  
the Appeal of Lewis Agassiz by their  
further Interlocutory Decree also pronounced  
for the said Appeal and retained the  
principal Cause in respect thereto and  
in the said Cause admitted the said  
Claim but directed further proof to  
be made by the Parties as to the question  
of

of the bona fide Neutrality of Mess<sup>rs</sup>  
Poultates & Co. at the time of the capture,

for the Registrar of  
his Majesty's High Court of  
Appeals for Prizes



List of causes prosecuted by M<sup>r</sup>. Bayard in which appearances have been given & other proceedings had in the high Court of Appeals.

Set down for hearing  
 Nancy - Hume.  
 Good Intent..... Archer  
 Farmer..... Asbourn.  
 Sally..... Hayes.  
 Harriet..... Calder  
 preparing for hearing -  
 Sally..... Choate  
 Suckey..... Andaulé.  
 Samson..... Barney.  
 Betsey..... Betterton  
 Sally..... Hest.-  
 Commerce..... Neal.  
 Pigau..... Lewis  
 Salame..... Wapton  
 Lydia..... Capel  
 Laura..... Pond  
 Betsey..... Slaum.  
 Dolly..... Clarke  
 Diligent..... Cunningham  
 Experiment..... Trowbridge  
 Venus..... Gardener  
 Polly..... Milberry  
 Betsey..... Spura.

Libels of appeal given

Harriet... J. Smith  
 Jane..... Hillibridge  
 John..... Pollard.  
 Atalanta... Waterman.  
 Kate..... Crocker  
 Patty..... Wilson  
 Patowmack. Chunn.  
 Rising-sun... Wilkey.  
 Harriet & Eliza. Human  
 Eliza..... Lewis.

appearances given.

America - Brown  
 Harnack. - Post.  
 Hope - Paddock  
 La Fayette...  
 Neptune..... Towne -

Inhibitions returned. but  
no appearances -

Polly. John Smith  
 Polly. - Herman Smith  
 Polly... Beckford -

A Further List of Vessels belonging to Citizens of the United States of America  
 can be taken on behalf of the owners until further information respecting

No.	Vessels	Masters	Owners & their Residence
60.	Dispatch Brig	New Townsend	
61.	Atlantic Sch.	Wm Marshall	Ebenezer Wales, Smith & Davis under M & A Davis of Roxbury in Massachusetts
62.	Miranda Sloop	Nath. Mitchell	John Dunkin & John Mullen of in Pennsylvania
63.	Patty Sloop	Peter Pond	Geo Brown of New Haven in Connecticut
64.	Eunice Schooner	Jos. Hamberk	Nath. Richardson & the mas of Salem in Massachusetts
65.	Winery Sloop	Hankes	Thos. Kennedy & others of Baltimore
66.	Flora Brig	Parker	Thos. Kennedy & others Baltimore
67.	Maria Schooner	Byres	Thoroughgood & Isaac Smith of Baltimore
68.	Sally Brig	Alex Duquid	Wm Vankoush Wall Alexander & Co of Baltimore
69.	Tryall Brig	J Boyle	Caleb Hall of Baltimore
70.	Fox Schooner	Thomas Adams	unknown
71.	Sweep Schooner	R. Holmes	David Hunkley already included among no 7 of former list

of America taken by British Cruisers in which no Proceedings  
 are transmitted to M<sup>r</sup> Balfour the Agent for Claims & Appeals. —

Captors	Courts where adjudged	Remarks. —
S. Quebec Jonas Rogers Com <sup>d</sup>	Barbadoes	Name & Description of owner & owners of ship & cargo, Prizes & other particulars wanting. —
Prizees Favorite William Bradley Com <sup>d</sup>	St Kitts	Tenor & Date of sentence, Prizes & other particulars, wanting
Miss. Alletta John Patterson Com <sup>d</sup>	Jamaica	Ditto Ditto
Miss. Louisa Rudge Robt Blackburn Com <sup>d</sup>	Antigua	Ditto — Ditto
		Captors, Tenor & Date of sentence Prizes & other particulars, wanting
	Jamaica	Ditto Ditto —
	Jamaica	Ditto Ditto —
		Ditto Ditto
Miss. Little Ann Jamaica	Jamaica	Ditto — Ditto
Miss. Duke of York Robt Highburne	Bermuda	Tenor & Date of sentence Prizes & other particulars wanting —
Frigate - Lucie Jonas Rogers Com <sup>d</sup>	Barbadoes.	Suppl names, State of Damages, Cargo retained - proceedings here for other particulars wanting costs Damages
Ship of War - Delight Wm Ken. Com <sup>d</sup>	Antigua -	Loss sustained unknown suppl Cargo released —

*[Faint, illegible handwriting on lined paper, possibly a ledger or notebook page. The text is mirrored across the page, suggesting bleed-through from the reverse side.]*

S. Duckworth  
Com. Price Com.

Barbadoes

31  
Owners of vessel & cargo  
proofs & other particulars  
wanting.

unknown

Mountserrat

Names of Captors Tenor &  
Date of sentence proofs  
& other particulars wanting

Boat belonging to  
Hulk under  
Com. Davis

St. Kitts

Owners names, Tenor &  
Date of sentence proofs  
& other particulars wanting

unknown

Dominion

Captors names Tenor &  
Date of sentence proofs  
& other particulars wanting

See H. S.  
Com. Rogers

Barbadoes

Owners names Tenor &  
Date of sentence proofs  
& other particulars wanting

in which no proceedings  
can be had until  
further information is received.

42	Hope Schooner	D Farley	
43	Neuter Schooner	Nehemiah Dowell	Smith & Deink of Boston Rob & Geo Williams of Boston
44	Phoenix Schooner	Wm Harlow	unknown
45	Success Schooner	Sam Bennett	Sam & Foster of Manchester
46	Trial Schooner	The Baker	unknown

7<sup>th</sup> ListList of Vessels in which Appeals have been entered by  
United States

1795

Names of Vessels	Masters	Owners	
Brig Salome	H. Wapen	Ambrose Vape James Hunnison of Philadelphia.	promoter
Ship Eliza	Borronde	James P. Bruce of Alexandria in Virginia Watson and Rodolph Eschman	His Majesty Agent
Schooner Edward	S. Hotchkiss	Wm. Patterson of Baltimore	promoter
Sloop Trial	N. Peniston	Morgan Price Moses Plankes of Philadelphia	Cent. Wige
Schooner Lucy	J. W. Hille	John Dale, Moses George Leitch of Newbury Port.	Retiree

by Samuel Bayard the Agent appointed by the Government of the U. S. America.

Captors.	Place of Condemnation.	<del>Inhibition</del> Citation etc now sent <del>to be served on the Captors to</del> <del>enforce an appearance - process for</del>
Date of York	Bermuda	Inhibition Citation etc. now sent to be served on the
Cobb Commander		Captors to enforce an —
		Appearance — process received.
Captors' Ships	D <sup>o</sup>	Ditto.
and Vessels.		
Two Boats.	D <sup>o</sup>	Ditto.
Large privateers.	D <sup>o</sup>	Ditto.
Privateers	D <sup>o</sup>	Ditto.

7:00 of course in  
which appeared here  
been visited by Mr.  
Raymond and others of  
Chicago of the United  
States of America

Doctors Commons  
6 March 1795

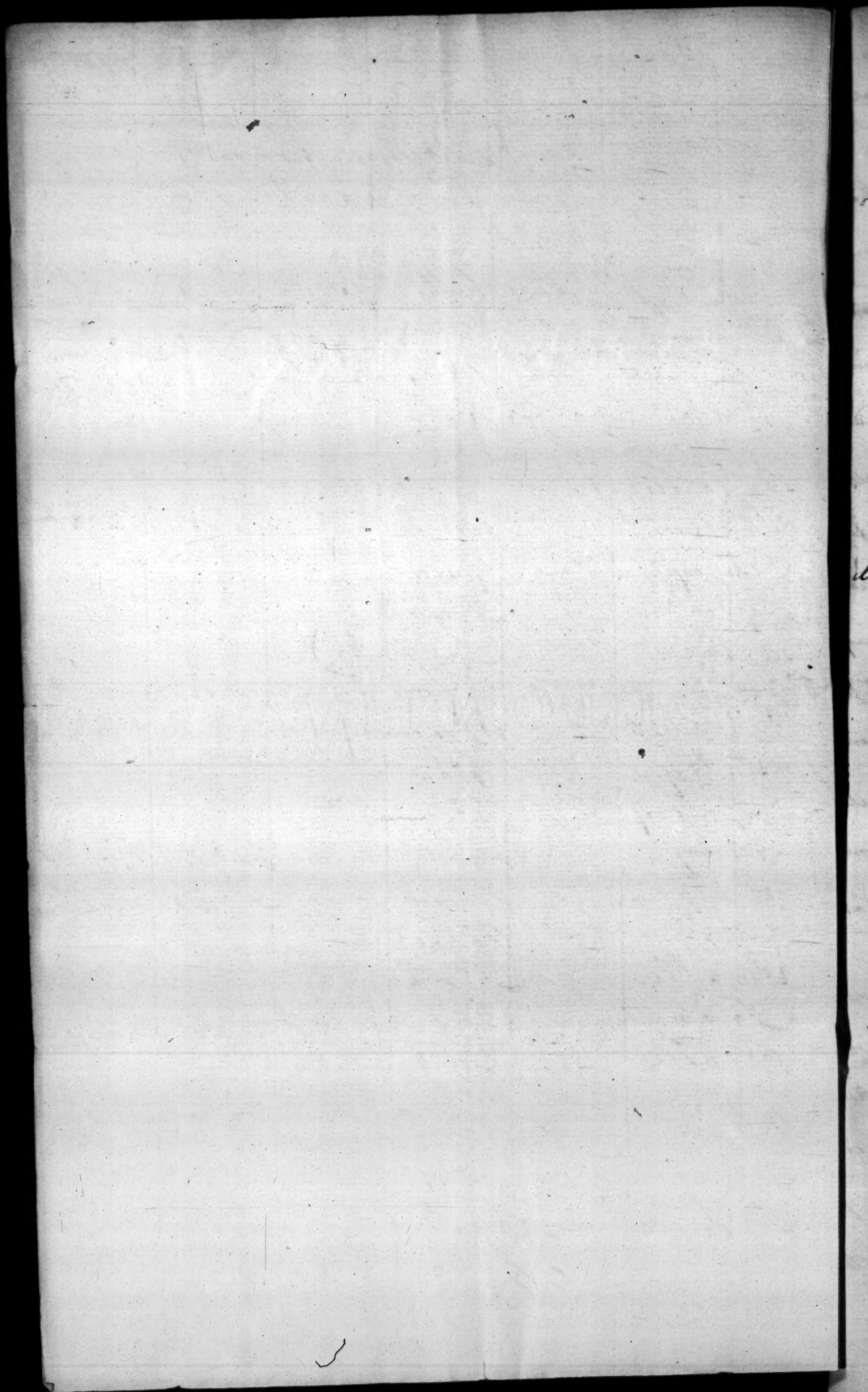
Thos<sup>r</sup> Brickett & Tounley present  
their Compts to Mr. Bayard and send  
him herewith the 16 Exhibitions with Copies  
and Instructions for service, viz in the

Napalborough	-	Porter	} Condemned at Dominica
America	-	Smith	
Nancy	-	Queen	
Lybia	-	Foster	
Chance	-	Smith	

Alathea	-	Sprague	} Condemned at St. Christopher
Sally	-	Gray	
Betty	-	Freeman	
Lucy	-	Grant	
Sally	-	Tilton	
Union	-	Warner	
Swallow	-	Fitch	
Fanny	-	Holt	
Commerce	-	Bouton	

William - Richmond - Condemned at  
Montserrat

Priscilla - Smith - Condemned at  
Nevis



(private)

London 7. March 1795.

35

Dear Sir

I wrote you a few days since by the Ohio Capt. Kemp for New York. The present goes also by a New York vessel. the Elliot. Capt. Harvey. In three or four days the Molly will sail for Philad<sup>a</sup>, by which ship I will send you the Process I have obtained in a number of <sup>cases of</sup> ~~cases of~~ <sup>claims</sup> - can appeal. They are not all in a state of perfect readiness. If they were I should hesitate about sending them by the way of N. Y. at present I send you two lists, made out under my direction No. 1. of those cases where proceedings have been instituted & No. 2. of those cases where nothing can yet be done until further information is received. I avail myself of the earliest opportunity of transmitting these that you may make one or both public, - or take such other steps ~~as you~~ on the information they contain as you may judge most for the interests of the Merchants of the U. S. The public papers by the Elliot will inform you of a treaty having been actually signed between the King of Naples & the French Republic. It was this morning announced in one of the most

determined <sup>of the</sup> ministerial prints - but the terms of the treaty  
is wholly unknown - You will also receive information  
of the extinction of the rebellion in La Vendée -  
Charette - with his royalists - & also the leaders of the  
Bretons, have certainly accepted the proffered arm  
of the Convention - Ireland is in a state of intense  
agitation, the prospect of Earl Fitzwilliam's recall  
that country after so short, but so popular an ab-  
-sence ~~has been~~ & on grounds connected  
with the best interests of the people - has electrified  
the whole country - private letters received yester-  
-day, that meetings of the people at large in every  
county of Ireland were to be held & resolutions  
on the present posture of affairs - Now it is open-  
-ly said that if Ministry persist in the recall of Earl  
Fitzwilliam, the restoration of the late Irish m-  
-nistrators to their places, ~~that~~ Ireland will be separated  
- from G. Britain. -

I send you by the present oppor-  
-tunity the papers which relate to Mr Meane's business  
you recommended <sup>to my charge</sup> & hope the steps I have taken  
to advance his interests will meet with your  
approbation -

By the Molly, Capt. Farrel for Mr  
you will receive one of the finest chess I could  
find in London -

I remain as ever -

with sincere gratitude & respect

E. Randolph Esq

D. L. your obed<sup>t</sup> serv<sup>t</sup> Samuel B. ...

London. 13. March. 1795.

36

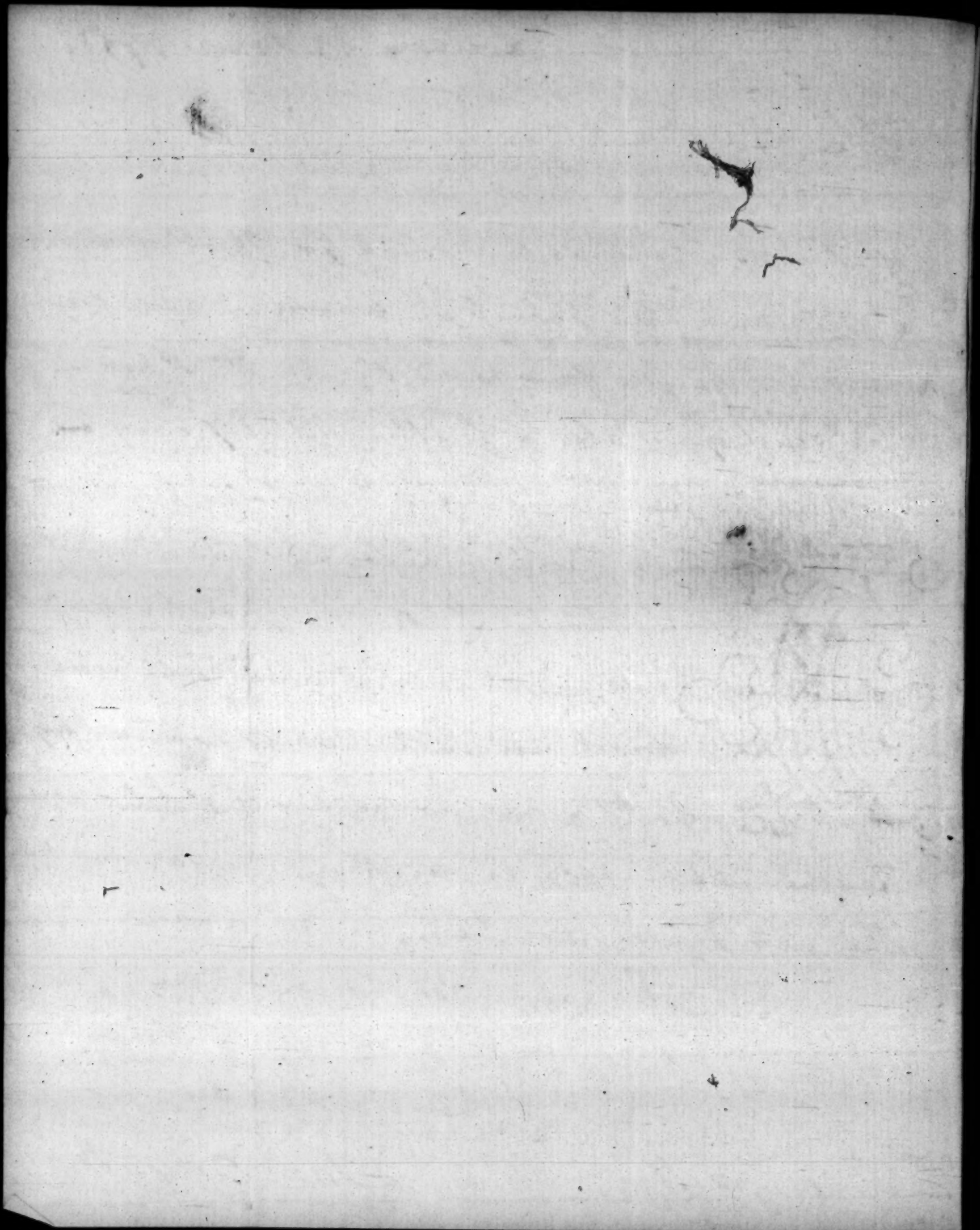
Sir,

By a gentleman of the name  
of Smith who sails to morrow for Baltimore  
I transmit you process in 6 cases in addition  
to the processes forwarded by the Wm Penn -  
I send you also a further list of 7 cases in  
where in the opinion of D<sup>r</sup> Nicholl further  
information is necessary before we can institute  
proceedings in them - I hope the process now  
forwarded will reach you in time to be sent  
out to the West Indies, with that forwarded by  
the Wm Penn. The additional list of vessels where  
further information is necessary, may arrive before  
the first shall have been made public

I have the honor to be  
with much respect Dear Sir  
your obed<sup>t</sup> & affec<sup>t</sup> serv<sup>t</sup>

The Secretary of State

Saml Bayard



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London 31. March. 1795. 37

Dear Sir,

Since my last letter to you by the Molly. nothing material has occurred in the line of my agency, particularly answering your notice. -

By Mr Jay who expects to sail for America on the 12<sup>th</sup> of next month. I shall probably be able to send you the last prospect that will appear in the cause now in my hands (those excepted where we have sent for further information). - At the same time you may look for a communication ~~relative to my~~ <sup>business</sup>, of every the piece of useful information relating to the claims & appeals, in my power to furnish.

I write you at present merely to send you the speeches of Barry D'Anglas & Mr. Fox. - both of them remarkably productions - the latter I heard delivered in the house of Commons - it occupied 3 hours & 1/2. I never was any thing delivered with more <sup>impassioned</sup> energy or heard with more silent attention -

By this report you will hear of the Emperor of Morocco having declared war against us. - Insurance American vessels has consequently risen. The Algerians also it is said commenced hostilities against G. Britain. The campaign has opened on the continent. - From present appearances it threatens to prove a

a very bloody one. Neither the Emperor nor  
of Prussia seem yet to have abandoned the contest.  
The both are exhausted, they will not yield, but  
persevere no doubt with the view of getting better  
terms of peace than at present they have a right  
to expect.

I would give you a general survey  
the political state of this country, were I such  
that you can collect a letter from the papers  
of the public papers. On all occasions however  
when I meet with information which I think  
will probably be useful to you, it will give  
great pleasure to send it to you by the earliest  
conveyance.

I have the honor to be

Dear Sir

Yours very obediently

Thomson

Sandwich

The Hon. E. Randolph Esq.

London. 17. April 495.

38

Dear Sir

I have just rec<sup>d</sup> a letter from a  
Mr Danson of this city, requesting that I would interest  
myself with you in favour of his Brother Capt D. -  
of the 46 Reg<sup>t</sup> of Grenadiers, lately taken in the last battle  
and at the surrender of his troops under Genl Graham  
Mr Danson of this place is a respectable gentleman  
of the law. - he has several intimate friendships in  
America - particularly Messrs Smith (of S.C.) & Whidman  
& Murray of Maryland - He wishes you would obtain  
from the French Minister in Philad<sup>a</sup>. permission for  
his Brother to be sent to the U. S. thence to G. Britain  
under parole. The Capt. is an invalid. - Has many  
friends here who are exceedingly interested in his health  
I trust - Your attention to this unfortunate man  
will much oblige many respectable persons in  
this place - I am &c &c

Most sincerely & respectfully  
your obed<sup>t</sup> & able serv<sup>t</sup>

Wm Randolph Esq.

Saml Bayard

The Honorable

By the "Frederick"  
Capt. Brown  
via New York.

London 14. March 1795. 39

Sir

By the *Ellie*, Capt. Harvey that sailed hence for New York last week, I forwarded you two lists - the first of 117 cases in which I had commenced proceedings either in the high Court of Admiralty, or before the Lords of Appeal, in behalf of American claimants against British captors - The second was a list of those cases where further proof will be necessary before we can with propriety institute a claim, or prosecute an appeal.

I have been anxious to have appeals entered in every instance where the papers would justify & entitle me, before the expiration of the time ~~fixing~~ within which by law an appeal is allowed, as in every case where that time has <sup>past</sup> expired, it is necessary in order to obtain leave to appeal, to incur the & &

additional expense of at least ten pounds—

Finding that difficulties obstructed the issuing of process in certain cases—as where we could not ascertain the time of the sentence below—the names of some of the privateers that captured our vessels—or the court in which the condemnations were made, I presented a memorial to the Lords of Appeal to obtain a removal of those difficulties. On this order was made last Saturday copies of which memorial & order I herewith transmit—The order is more comprehensive than the prayer of the memorial, but I trust will operate favourably to the American interest.

In the cases of capture by the Ships of war of his Majesty, his proctor has agreed to give an appearance immediately; accordingly he has already appeared, on the service of our process on Sir J. Jarvis & Sir C. Grey for the captures by

made at the Islands of Martinique & St. Lucia. 40<sup>3</sup>

By this arrangement much time will be saved in those cases, in all of which we shall be ready for an immediate hearing, ~~from~~ whenever the captors shall have brought in the Ships papers, unless the interest of the American claimants should require the production of further proof.

By one of the Spring vessels, now on the eve of departure for Philadelphia, you will, <sup>receive</sup> the processes in those cases where no appearance can at present be obtained here - These I doubt not will be forwarded to the West Indies by the earliest conveyance, & there be send agreeably to the instructions which accompany them. Whether the Merchants interested in these captures, will assume the charge of procuring the service of these processes & then of returning them to me - or whether the

the President will authorize some ~~some~~ person to proceed thro the different Islands to serve the enclosed motions Exhibitions, & then forward them to this place without delay, it is impossible for me to conjecture. But I am here advis'd that the latter mode would be best calculated to insure safety & dispatch. It is of great importance by every means to prevent a failure in the service of the ~~enclosed~~ process as in such case, very considerable delay in the final hearing of <sup>the</sup> causes should be occasioned -

I feel sensibly impressed with the necessity of every degree of expedition in our power, since after all the exertions we can make for this purpose, many an unavoidable delay will exist than will be agreeable either to the Government, or the citizens of the U. States on whose behalf the suits here are instituted. The mode in which business is transacted before

41 5

The Lords of Appeal does not permit us to hope for an early decision on the American appeals.

They usually in the winter season meet once a week on Saturday - in some instances they have met twice a week, but on one of these days they are frequently engaged in what are called Plantation causes -

Their hour of meeting is mostly 12. O'Clock onwards.

3. - They seldom can or do hear more than one or two causes argued, sometimes one cause will occupy two or more sittings. Through the Summer season

they very rarely meet at all, as I have been informed during the absence they cannot have causes argued before them from the absence of the common law counsel -

Since it has often happened that delays have been occasioned, ruinous to the parties, ~~It is~~ incompatible with the principles of justice - In the case of the Kitty

a capture made in the year 1777. at Potota -

has a hearing has never been obtained until Sat-  
 the 14. Ult. when Doct<sup>r</sup> Nicholl the advocate for  
 the claimants declared that nothing had been wanted  
 on their part to obtain a hearing long before.

In the case of the Nicholas, belonging to Mr. B. of Boston the capture was made in January 1797.  
 & a final decision never had until the 25 Nov. 1797.

Whenever captures of our vessels have been made  
 by His Majesty's ships of war, I have no doubt but  
 speedy accommodations may take place, but it will  
 be in the power of private captors to throw insur-  
 -mountable obstacles in the way of an early settlement of the  
 business under my charge - It is hardly necessary  
 to presume to inform you that the High Court of Admiralty  
 is constituted from the members of the Kings Council  
 of whom upwards of 40 are in commission, though

7  
42

seldom more than 5 or 6 attend. Their judicial <sup>of the</sup> ~~of the~~   
minations are said often to be influenced by their   
political opinions. They ~~the~~ relations which this country   
bears to those neutral states or kingdoms whose   
subjects or citizens appear before them to demand   
justice. Since however the English Government &   
nation begin fully to appreciate the importance of   
maintaining a friendly intercourse with the U. States   
I hope the work of conciliation which Mr Jay has   
has so ably & so happily begun may progress &   
terminate finally to the satisfaction of both countries.

To this desirable end nothing can more directly   
contribute, than facilitating the recovery of property   
illegally taken from our citizens ~~by~~ in the course of   
the present war. And I am happy in being able   
to assure you that all the decisions that have lately   
taken place on American claims or appeals point   
immediately to this object.

On the claim of Mr. Constable of New York, for property taken on board the St. Jean D'Evre, a French East Indiaman, in August 1792. & captured the following, the property is to be restored, by a decree of the Lords of Appeal - In the case of the French ship *Elonchilis* master, an American ship laden with the produce of one of the French Islands, & bound to Amsterdam - the capture was made on the 7th 1794. & on Thursday last heard & determined by the Judge of the Admiralty - he has directed the ship & cargo to be restored, each party paying their own costs. He stated - & this I understand is the first opportunity he has had of doing so, that "the term" adjudicated "by no means meant condemnation as some of the captors had misunderstood the Instructions of the 8<sup>th</sup> of Jan<sup>y</sup>. to mean" neither would he undertake to say that the Americans had no right to purchase in the produce of the French Islands, or to carry the same to an European market."

43 9

From this decision however the captors have given notice that they mean to appeal. It will rest with the Court of armer resort in prize causes to affirm or annul the decree.

Several vessels have lately arrived from Philadelphia, by neither of which have I been favoured with any communication from you. In a few weeks I shall hope to hear from you & to receive those instructions for my government which Mr Jay advised me to request. On his departure which he expects will take place in a few weeks. - <sup>on</sup> Mr. Puckney's <sup>returning</sup> ~~leaving~~ for Spain, where he presumed he will continue not less than 6 months, ~~and~~ the instructions contemplated will be doubly necessary -

I have the honor to be Sir  
with sincere respect & esteem

Your obed<sup>t</sup>. & aff<sup>e</sup> servant

Honble. The Sec<sup>y</sup> of State.

Sam<sup>l</sup> Bayard

London 17. April 1795.

44

Sir

As there is no vessel expected shortly to sail from this port for Philadelphia, I am under the necessity of sending you by the way of New York all the process that can at present be obtained. By the Friends, Capt. Bacon, I have at this time the honor of forwarding you Inhibitions & Monitions, with the necessary instructions for serving the same in 22 additional cases to those before sent by the William Penn. & the Factor, making in all 143. cases in which I have obtained & forwarded process.

Large packets of papers relating to American claims are ~~being~~<sup>frequently</sup> coming to hand. The expense of postage on these is high arising from their being put into the post offices at the out ports, instead of being delivered to myself or left at one of the American coffee houses, where my address is known & where the greatest care would be taken of them. Might not this expense in a great degree be prevented by an advertisement in the American newspapers, requesting all Captains of vessels, or others who may be charged with the care of papers addressed to me as agents of claims & appeals, to leave them either at the New York or Pennsylvania Coffee house, or to deliver them at my place of residence in Guilford Street near the Foundling Hospital.

In this place I shall most probably remain during the residue of my stay in London. For having been disagreeably situated in the lodgings we have taken at 2 different places; by the advice of our friends we have taken & purchased a small house from which I hope we shall <sup>not</sup> remove, till we remove to our native country.

A few days since, our Proctor Mr Townley furnished Sir W<sup>m</sup> Scott with a list of 49 cases, in the greater part of which after seizure the vessels & cargoes had been restored, but with some costs & damages. In many of them the loss sustained appeared to be inconsiderable. In such I thought it would not be advisable to institute appeals, if any arrangement could be made for settling them without the enormous expense which an appeal would incur. Mr Jay previous to his departure had a conference with Lord Grenville, & Sir William Scott on this subject, but nothing could then be determined on. This day in company with Dr Nichol & Mr Townley I waited on Sir William, to consider how we had best dispose of this class of cases. He suggested as his opinion, that it would be more advisable to have them settled by consent, than to bring them before the Lords of Appeal.

That there would thus be a saving of much expense. If the claims of our citizens be sooner decided - This government he remarked, by the terms of the late treaty, was not to be liable for any losses sustained by the citizens of the United States, in consequence of British Captures, until redress had first been sought from the Captors in the regular course of justice; & without effect. But from his knowledge of the sentiments of Ministers he had no doubt but they would waive this right, & consent themselves. Dr Nichol & myself should consider & ascertain what allowance might justly be made to the citizens of the U. S. for any expenses they may have incurred in prosecuting their claims, or damages they may have sustained from detention or otherwise. I agree to pay whatever we should deem just & reasonable on these grounds.

45  
He suggested also that we might in the same way settle  
a considerable proportion of the cases, where appellants have  
already been interdicted, after some leading principles have been  
established, on full argument. Obed to settle in this way the  
claims under my charge, and proctors inform me, it would be  
highly proper, & may perhaps be indispensably necessary to have  
powers <sup>of attorney</sup> from each of the claimants or appellants, their executors  
or administrators, enabling me amicably to settle & agree what  
sums are justly due to them - to receive monies that may be  
paid on their account. To give discharges for the same, &  
generally to do such acts on their behalf, as shall best advance  
their interests - By a measure of this kind difficulties will  
be obviated which otherwise may occasion great inconvenience  
and I am induced to believe that our <sup>Government</sup> citizens would prefer  
the mode of settling their suits <sup>as proposed</sup>, to the customary one  
of referring the liquidation of costs & damages to the Registrar  
of the merchants, which would increase the costs above £16- in  
each case & be attended with considerable delay.

In all the cases mentioned in the inclosed list, <sup>for</sup> costs  
& damages only are demanded, there is an extreme deficiency of  
information. It is agreed between Sir William Scott & myself  
that they shall rest until further proofs arrive. Sir W. expresses  
his wish that diligence might be used in sending these forward  
after which we may soon dispose of this class - For the kind  
of evidence that will be necessary I refer you <sup>to</sup> ~~to my~~ letter  
of the 2<sup>nd</sup> of February last, to you. In addition to which I need  
only remark that in all cases copies of the proceedings of the Vice  
Admiralty of the West Indies will be requisite -

In cases where there

There have been condemnations in the courts before. The  
loss unknown - or not of any great amount. Appeals either have  
or will be entered, but no further steps taken in them until  
the more full & authentic information is received.

Inclosed I send 2 lists. the one of 22 additional cases  
in which I now forward process. Instructions - the other -  
where our demand is only for costs & damages -

I am anxious to learn what arrangements the Gov-  
ernment of the United States have made, or contemplate, in re-  
gard to paying the expenses of the suits here instituted. As yet  
I have not had the honor of hearing from you Sir since  
your arrival - but am in daily expectation of your dispo-  
sition of instructions.

I have the honor to be

Dear Sir

With sincere respect & esteem

Your obedient servant

Saml Bayard

Bayard 8. April 17-95  
rec. June 19.

To be read to Mr.  
Fish

The Secretary of State.

London 16. May 1795. 46

Sir,

Your letter of the 6. of Ult.<sup>o</sup> I had the honor of receiving on the 13 inst. The "box of spoliation" as you term them, have not yet come to hand. I have taken considerable pains to get possession of them, but to no purpose as yet: as they must pass thro' all the forms of the custom house, before delivery to myself or order.

I am happy to find that from such of my communications as had reached you, you were favourably impress'd with my "attention" to the business under my charge - No one can be more strongly persuaded that "it ought not". While I have health. I can assure you "it will not be relaxed".

Those parts of ~~your~~ your letter which concern Mess<sup>rs</sup> Bird Savage & Bin, I immediately communicated to them. & they appear gratified by this proof of your attention to their interest. -

I was aware if the "surprise" you would feel at the information contained in my letter of the 2<sup>nd</sup> Feb. relative to the enormous expence that would in all probability be incurred, in the prosecution of the suits under my direction. Subsequent enquiry has satisfied me that what I then stated is within the truth.

I supposed at that time the numbers of claims & appeals not to exceed 300. I fear from the papers that are daily flowing in upon me from all parts of the United States that this above estimate is far within the mark. A day or two previous my leaving Philadelphia, Mr Fitzsimmons mentioned to me as his opinion that I should be charg'd with the care of at least 1000 cases. I trust they well amount to half that number. But should there be 500- or even 400. the sum of money I have mentioned will be far short of what we must ultimately disburse in pursuit of that justice our citizens are entitled to expect.

47

I most sincerely wish that the plan you appear to contemplate of effecting the settlement of our suits by clases could be carried into practice. But I fear that contrary to our wishes & the expectations of our government & citizens, we shall be obliged to carry most of them thro the Court of Appeals & some of them through both the high Court of Admiralty ~~and~~ the High Court of Appeals. You will perceive Sir from my letter of the 31. March. ~~from me~~ to Mr Jay a copy of which I enclose, the <sup>general</sup> clases into which our cases will be divided. There will branch out into subclases, between the individual cases of which, the interest of parties & of their agents - & the ingenuity of Counsel will find a difference sufficiently marked to justify an argument & bringing the matter to a judicial determination. Had all our vessels ~~been~~ that have <sup>been</sup> condemn'd as prize, been captured by Kings Ships, there would have been stronger ground <sup>to hope</sup> for ~~obstructing~~ the settlement of our business in the way.

which no doubt the President, yourself & Mr. Jay  
have hitherto expected. But even in this case when  
we consider that ~~the~~ although the Kings Admiral  
General is ~~ex~~ officio, counsel - & the King's Proctor  
~~ex~~ officio, appears for every Commander & crew of  
Kings ship. (which indeed facilitates the hearing of  
a cause) yet that to the commander & crew of such  
public, no less than of a, private vessel of war belong  
the proceeds of sale of every vessel & cargo condemned as  
prize - When we consider the measures that will prob-  
ably be taken by interested parties, proctors against & others  
to defend a suit to the last in hopes of a favourable de-  
-termining the casualties that may happen in their favor  
the defect of evidence - the loss of ships papers - mistake  
or perjury of the Capt<sup>n</sup> or crew - false testimony un-  
lawfully obtained - & a thousand other circumstances which affect  
the ultimate decision of a cause - & that they have ev-  
ery thing to suspect, & nothing to apprehend from a final de-  
-ciding these things you Sir, Your fellow citizens

will rest on its present footing —

48

From the processes that have been forwarded to you by different vessels you will perceive in how many cases the copies of proceedings in the Vice Admiralty Courts of the West Indies, are wanting. No steps beside the more entry of the cause can be taken in those cases until the copies of proceedings referred to above, shall arrive.

With the aid of the fees that have come to hand measures will be taken to obtain <sup>judicial</sup> ~~the~~ opinions in the several cases mentioned in my letter to Mr Jay.

The expense incurred on the more entry of an appeal is comparatively small. It is the subsequent proceedings that occasion the enormous expense I have stated.

but, it is not always in the power of a claimant when he has entered his cause in court to ~~stop~~ arrest it in this initiatory stage — The captor by giving an appearance may oblige him either to proceed to a hearing or to abandon his claim —

That either party may at any time abandon

the prosecution or defense of his suit, there can be no doubt  
The Plaintiff or appellant by declaring he will  
proceed no further, - the Respondent by consenting to  
a reversal of the decree below; but the party so ending  
his suit will be subject to the taxed costs of his  
opponent. - The manner in which the amount of  
these is ascertained is by the Proctor of the successful  
party making out his Bill as between himself & his  
client & laying it before the Registrar, who takes from  
the bill whatever he thinks the losing party is not  
bound to pay - the amount of the charges thus struck  
off. ~~from the extra~~ in a bill of £250. will be from  
£30 to £40. - The former are the costs which method  
in our favour "may be recovered" - the latter form  
extra costs which "must be thrown away without  
of recovery" unless obtained from the British Government.

The sum I have before mentioned, you need  
doubt understand, need not be immediately ascertained.  
There is no expectation of a greater advance, to our

than about £30. per case - It is not usual to pay <sup>49</sup> any  
thing in advance, but the magnitude of the Proctors dis-  
bursements in so great a number of suits as those  
I have in charge, are too great for ordinary capitals.

By the present conveyance I send several  
printed cases, 200 of which are struck off in many  
~~cases~~ appeal. The charges for printing only, in com-  
mon cases, amount from between £20. to 50 -

I send also. process in 13. cases. 10. by a Mr Lodge  
a house Mr Witherspoon says I would recommend to  
your notice - & 3 by Mr Young -

I have thought it proper to transmit you copies  
of Sir W. Scott, & D<sup>r</sup> Nicholls's opinions in sundry  
cases; copies of all which I shall preserve in a book  
provided, for the purpose -

I have waited till the  
moment for an answer from  
Mr. C. to my note of the  
1<sup>st</sup> (a copy of which was sent  
separately to them & ~~sent~~  
sent by the next ship - if recd -  
Hon. E. Randolph Esq.

I have the honor to be with  
great respect & esteem  
Dear Sir

Your most obed<sup>t</sup> & aff<sup>d</sup> serv<sup>t</sup>  
Sam<sup>l</sup> Bayard

Bayard & James D. Bayard

rec'd July 15

50

~~citizens~~ can appreciate the chance that exists of settling early even those cases where the capture has been made by his Majesty's vessels of war.

But, <sup>these</sup> form but a small proportion of the American claims. Of those at present under my direction not more than 60, I think, are of this description. The great mass of captures have been made by the privateers of the West Indies. And altho, we have the satisfaction to believe that against the owners of these, the Lords of Appeal, will give probably give us exemplary costs and damages, yet that from this quarter we may look for any possible delay or impediment in the recovery of our ~~refused~~ sea property is a circumstance we cannot reflect on without pain. Instead of the proceeds of sale of captured property being disposed of as the prize act directs, if not immediately distributed among the captors, they are detained in the hands

of the owners of the very privations, that have seized  
 the property, who I understand, enjoy the use of the  
 money during the pendency of the appeal, without  
 being liable for the payment of interest during the  
 period. Having then the power of procrastinating  
 determination of a suit I fear they will listen too  
 easily to the voice of self interest, & decline all amicable  
 settlement. As little will it comport with the interests  
 of the officers of the Admiralty Court, here, to hasten  
 the settlement of our causes. That you might have  
 the most correct information of the degree of interest  
 which the <sup>different</sup> officers of the Court have in delaying  
 business, I have taken the earliest measures to  
 ascertain agreeably to your wish. The nature, & amount  
 of the legal expenses of at the various stages of a  
 suit. I enclose I shall send you <sup>a copy of</sup> my letter to our project  
 & of their answer on this subject, you will hence  
 be able to judge how far Lord Grenville is supported

in his declaration to Mr Jay that "a very <sup>51</sup> <sup>7</sup> considerable  
part of the injuries ~~complained~~ of alleged to have been  
suffered by the Americans may be redressed in  
the usual course of judicial proceeding, at a very  
small expense to the parties".

When I mention the interest which the  
officers of the Court have in <sup>discontinuing</sup> ~~delaying~~ the early  
settlement of business. I must be understood to speak  
generally. For I have that confidence in the  
Counsel retained in behalf of the U. States, & in the  
Proctors charged with the management of our business  
particularly in Mr Slade - as to believe they will  
give every assistance to effect an early settlement  
of our causes with as little expense <sup>to us</sup> as possible, but  
as there are two parties to every suit, I fear it would  
not be charity but credulity to expect the same line  
of conduct from our adversaries. The foregoing  
statements will furnish grounds for estimating the degree  
of probability there is of our settling our suits by clashes.

I derive some encouragement however from the conversation with Sir W. Scott - the substance of which I reported to you in my ~~last~~ letter of the 17. Ult<sup>o</sup> - which I have procured a conference between Mr. Puckney & myself on the subject of that class of cases which relates only to costs and damages. Having accompanied Mr. Puckney it was with satisfaction I heard Sir William repeat the sentiments he expressed at the former conference. Mr. Puckney & himself concur in thinking it best that this class should rest, (without prejudice however to the American Claimants), until your instructions & further papers concerning them, shall arrive. He thinks it probable that we may be able to agree & settle many of other cases without carrying them thro' all the way prior to a final decree.

By the enclosed copies of what have passed between Mr. Puckney & myself you will perceive the arrangements that have been

9.

for the disbursement of such moneys as may be<sup>5<sup>m</sup></sup>  
allotted to defray the expences of the claims & appeals.  
These were adopted as temporary expedients, subject  
necessarily to ~~your~~ such attention as you may  
think advisable.

The fund left by Mr Jay in  
the hands of Sup<sup>rs</sup> Bird Savary & Bird, destined for  
this object amounted only to £1400.- Mr Pinckney  
thought it would be advisable to retain in their  
hands of these Gent<sup>l<sup>ns</sup></sup> the sum of £500. & to ~~pay~~ pay  
for the present, but £1100 to our Proctors. - £600  
to Sup<sup>rs</sup> Crickitt & Townley, & £500 to Mr Slade

The latter Gentleman has given me a statement  
of the advances he has made on our acc<sup>t</sup>. which at  
present amount to £772..9..10.. & I have given  
him a draught for £500 on acc<sup>t</sup>. of the same.

From the former Gent<sup>l<sup>ns</sup></sup> I have not yet been able  
to ascertain the advances they have made in our suits  
altho' I have requested the same on several occasions  
When they furnish with a list of their disbursements

I shall give them an order for the £6000 that  
them by Mr Pinckney.

You will also perceive from the copy of a  
note from Mr. Pinckney, an authority given  
put a certain number of causes into the hands of  
Messrs Junner & Bush. - Mr Junner the Registrar  
of the Admiralty. & of the Court of Appeals - & Mr Bush  
his partner, are both respectable gent<sup>l</sup> & entitled  
talents & experience to attention in this way, had  
our <sup>own</sup> interests recommended the measure - The same  
motives should be suffered to operate in favour  
other gentlemen of the profession. Mess<sup>rs</sup> C. & V. I. have  
already an over proportion of the American business  
without having any superior title to it, as far  
I have been able to discover. By an extraordinary  
interest with the Consuls of the Neutral Powers  
these Gent<sup>l</sup> have secured a monopoly of the la-  
claims, & hence have accumulated a handsome fortune

53 11

my present knowledge of the character & circumstances in Doctors Commons, satisfies me of the impropriety of increasing the map of business already ~~in~~ under their direction - A very partial distribution of our business will not serve our interest - My object has uniformly been, to put it into the hands of such as according to the best information I can get, exhibit most ability, attention, & address in the management of it, & who from principles are led ever zeal in behalf of our injured fellow citizens -

For these qualities no one of the Doctors is more eminent than Mr. Nade - The daily intercourse I have with the Gentlemen of his profession, has but tended to justify in my opinion the recommendations in his favour I rec<sup>d</sup> from several of my countrymen, - to satisfy me of his talents integrity & affection, & to strengthen my just preference. - Thus much I have thought it necessary to say in regard to these Gentlemen who are competitors for the American business in hopes of receiving

directions from you on this head, in your next letter.

On my arrival here I found that Sir William Scott & D<sup>r</sup> Nicholl were retained generally on the part of the United States - Till lately, I did not fully comprehend the effect of this measure - The Lord of Appeal never but one Advocate - One Common Law counsel, on a case in each cause - The addition of third counsel is therefore exceedingly unusual, as the costs are thereby in every case increased about £50. (as you will find from the enclosed statement of Sup<sup>ts</sup> Stave & Bush.) nor can the costs be recovered from the captors, in case restitution awarded... Had Sir William Scott been retained in all cases of capture by privateers, D<sup>r</sup> Nicholl in all cases of capture by Kings ships (where Sir William must be opposed to us) the expence above stated might have been saved - This arrangement might yet possibly be made, without giving offence, if such should be the desire of the President - but if it be thought advisable to continue D<sup>r</sup> Nicholl as counsel in all cases, the business

Doctors Commons

27 May 1795.

Sir

In answer to your Favor of the 16<sup>th</sup> Inst and the several Queries therein on the Subject of Expences we beg leave to acquaint you, and it is with much satisfaction that we give you every possible Information in our power that may as far as Circumstances will admit put the Matter of Expences in as clear a light as possible, that in respect to your first Query, namely "what are the usual Expences incident to the mere Entry of a Claim and also of an Appeal"

In the Admiralty Court

The Entry of a Claim including the Monition against the Captor to proceed to Judication is about £20\*

In the Court of Appeals

The Entry of the Claim and interposing the Appeal including the Inhibition is about . . . £35\*\*

save

that if there was a Claim in the Court below the Expence of instituting the Appeal may not be more than . . . £25

The second Query we have endeavoured to answer in our

those Cases where it has been thought fit to introduce annexed to the Claim the documents transmitted from America, this Expence will necessarily be increased

Note - This calculation is made to include a third Counsel on the part of appellant

Note also - that where an Application has been necessary for leave to Appeal an additional Expence is incurred of about £10 or £12.

our reply to the 5<sup>th</sup>

In the 3<sup>d</sup> Query as to "what are the usual Fees  
"of the different Officers of the Court" We cannot well  
state them for they depend upon a variety of circumstances  
such as the length of the Proceedings, the Instruments  
necessary, the Opposition given and the like and are  
paid by the Proctor for the Claimant and Appellant as  
they arise - The Fees in the Court of Appeal in an  
ordinary case are to each Counsel as under, except  
that the senior Counsel alone signs the Claim viz:

Retainer . . . . . 2 Gs

Settling Claim . . . . . 1 Gs

Motion if necessary for leave } 3 Gs  
to appeal . . . . . }

Surrogate signing Libel of Appeal . . 1 Gs

Settling case to be printed for the words } 5 Gs  
of Appeal . . . . . }

Consultation previous to hearing . . 5 Gs

Fee with Brief . . . . . 10 Gs

In the fourth as to compromising after Claims and Appeals the  
same may certainly be done, but if the Parties do not agree there  
on withdrawing the Appeal £3. 16. 8 must be paid by the Appellant  
to the Respondent if proceedings are withdrawn before issue is joined  
that is after the Libel has been given in and an answer thereto  
but if proceedings are withdrawn after such issue and it is not  
otherwise agreed between the Parties taxed costs will be allowed the  
Respondent to the time of such giving up the Appeal and what  
will be according to the progress made therein.

With regard to the 3<sup>rd</sup> Query namely "what are the taxable Charges of a Cause which may be recovered by Claimants" and what the Expenses they may be obliged to defray which "the Captor cannot be compelled to refund" we think it necessary to observe that it is not usual to condemn a Respondent in Costs by reason that he is brought before the Court of Appeal in possession of a Sentence and however the Appellant may feel from not obtaining complete Indemnification yet it is considered as equally hard to condemn the Respondent in the Costs of maintaining a Judgment in his favor - But supposing the Respondent to be condemned in Costs we think that upon an average where there are three Counsel in the Court of Appeal (and in all these Cases pursuant to Directions we take Dr. Nicholl as a third Counsel for the American Claimant where from the Capture not having been made by a Kings Ship we can even have Sir William Scott and the Attorney General Sir John Scott) the Amount of the Appellant Proctors Bill may be about £280\* of which sum £30 may be disallowed on Taxation as between Party and Party and £50 may be further taken off as arising from the Engagement of a third Counsel the adverse Party not being liable to more than two consequently the extra Costs to the Appellant may be about £80 and the taxed Costs (if Costs are given) against the Respondent may be about £200. - We however cannot in respect to the whole of this Article speak with precision as

the

This does not include the Expenses which may be incurred in the West Indies in enforcing an Appearance from the Captor or obtaining a Copy of the Proceedings in the Court below to enable the final prosecution of the Appeal.

The length of Proceedings transmitted and other Circumstances  
must necessarily vary the Case

Having thus stated the probable Expences of an Appeal  
it only remains to notice the Expence of a final  
prosecution of the Causes in the Admiralty and (proceeding  
as we do upon the Idea that every Cause will be  
separately discussed) we think that the same will not  
be less than £100 in each Case And should those Cases  
be carried into the Court of Appeal either by Captor or Claimant  
the Observations we have hereinbefore made in respect to  
Appeals from the West Indies will tend very much to  
answer any Enquiry on the Subject of Expence - If  
the Captors should be condemned in Costs (but which  
will not be the Case if probable Cause of Seizure  
should be pronounced for) the Expence of the Suit in  
the Admiralty will fall almost entirely upon them  
as the disallowances to which the Claimant will  
be Subject may not in each Case exceed £10.

We are, very respectfully,

Yr<sup>l</sup> most obed<sup>t</sup> M<sup>ts</sup>  
J. Crockett & Courley

Samuel Bayard Esq

Louisa May 29. 1795. 56

Sir I had the honor of writing you fully  
some days since by the Adriana Capt Blapp. for  
Philadelphia. Mr Goring a gentleman who went  
passenger in this ship obligingly promised to deliver  
you sundry process & documents relating to our  
claims & appeals which I put under his care.

Since that time I have been able to look  
over the list of petitions sent me by the Diana  
Of the 104 cases in which papers have been  
forwarded by this vessel only 34. are new. The  
rest are cases in which some steps have already been  
taken to effect a restitution. In the new cases  
claims or appeals will be immediately instituted  
as in former cases, process obtained, & forwarded by  
the first vessel sailing directly for Philad.  
I am told this will be the Rebecca, who will sail  
some time <sup>in</sup> the next, at the beginning of the following week

By the present conveyance I have the honor to  
send you ~~the~~ a copy of the order from Mr. Pinckney  
to Messrs. Bird, Savage & Bird - The form of the note  
referred to in my letter to Mr. Pinckney.

We have had the pleasure to hear of Mr. P.'s safe  
arrival in France after a short passage -

I send also at this time Messrs. Brickell & Co.  
answer to my note of the 16<sup>th</sup> inst. -

The two enclosed newspapers I thought  
contained intelligence of too interesting a nature  
not to be sent you by the very first vessel  
for an American port -

I have the honor to be  
with sincere regards & esteem

Sir  
Yours most ob<sup>ly</sup> &c.

The Hon<sup>ble</sup> Secretary of State.

Saml Bayard

57.

George the third by the Grace of God of Great Bri-  
tain France and Ireland King Defender of the Faith  
To all and singular our Officers and Ministers and  
others our liege subjects being literate persons whomso-  
ever in and throughout our Kingdom of Great Britain  
and other our foreign Plantations and Dominions  
Greeting Whereas in a certain business of Prize concern-  
ing the American Brigantine Betsey (William Fuolong  
Master) and goods therein taken by the private Sloop  
of War the Agenoria Willis Morgan Commander and  
carried to the Island of Bermuda which was lately  
moved and prosecuted before our beloved the Honorable  
John Green Esquire Judge of the Vice Admiralty Court  
of Bermuda An Appeal and Complaint of Nullity hath  
been made and interposed by the Proctor of the said  
William Fuolong the Master and claimant of the said  
American Brigantine Betsey her Boat Tackle Apparel  
and Furniture as the true lawful and sole property  
of George Patterson of Baltimore in North America  
Merchant and claimant of the Cargo and Lading  
on board the said Brigantine as the true lawful and  
sole property of the said George Patterson and William  
Patterson of Baltimore aforesaid Merchants both citi-  
zens of the United States of America and also claimant  
of

of the private Adventures of himself and Crew all  
citizens of the said United States of America from a  
certain pretended definitive sentence or final Decree in  
writing signed and promulged by the said Judge on  
the twenty third day of May last whereby he did sen-  
tence and decree that the said Brigantine Betsey  
with her boat guns tackle apparel and furniture  
and all and singular her bargo and Lading be and  
the same were thereby adjudged and condemned  
as lawful Prize to and for the use of the owners of the  
<sup>in that behalf, and that the same be delivered to the said owners and Captors</sup>  
said Sloop Agenora and the Captors, or to their agent  
or agents to be by him or them sold and the Net Pro-  
ceeds thereof divided among the said owners and cap-  
tors and all others lawfully interested therein and  
did order and direct that the taxed costs of the suit  
be paid by the claimants and from the said Judges re-  
fusing to restore and not restoring the said Brigant-  
ine and her bargo as claimed with all the reason-  
able costs Damages Charges and Demurrage occa-  
sioned by the unjust seizure and detention thereof  
to us and to our High Court of Chancery of Great Bri-  
tain And Whereas we have granted our commif-  
sion under the Great Seal of Great Britain for the  
hearing and final determining of all causes of Appeal

Appeal as to Prizes to certain most noble and <sup>58</sup>right  
honorable Persons in our said Commission named  
And Whereas our beloved the worshipful John  
Fisher Doctor of Laws their Surrogate hath at  
the Petition of the Proctor of the said Party Appellant  
decreed an Inhibition and Citation and a Monition  
for the unwritten Procefs in manner and form  
hereafter expressed (Justice so requiring) We do there-  
fore strictly charge and command you jointly and  
severally that you peremptorily inhibit or cause  
to be inhibited the aforesaid Judge of the said Vice  
Admiralty Court of Bermuda the Judge from  
whom the appeal in this behalf is made his Sur-  
rogate or Surrogates and Registrar or Actuary  
and also the said Willis Morgan in special and  
all others in general who are by Law to be inhi-  
bited in this behalf (all and every of whom we do  
also by the tenor of these presents inhibit) that  
they do not or attempt any thing to the prejudice of  
of the said Party Appellant or of his said Appeal and  
Complaint so long as the same shall remain un-  
decided before the said most noble and right hono-  
rable Persons so that the said Party Appellant may  
have free liberty (as in justice he ought to prosecute  
this

this his business of Appeal and Complaint under  
pain of the Law and the contempt thereof and further  
that you cite or cause to be cited peremptorily and  
personally the said Willis Morgan to appear be-  
fore the said most noble and right honorable Persons  
or any three or more of them in the Privy Council  
Chamber at the Cockpit Whitehall the hundredth  
day after service of these Presents if it be a Court  
Day otherwise before their Lordships Surrogate in  
the dining room adjoining to the Common Hall of  
Doctors Commons situate in the Parish of Saint  
Benedict near Paul's Wharfe London upon the  
next Court held there between the usual hours of  
hearing causes there to answer to the aforesaid  
Party Appellant in this his business of Appeal  
and Complaint and further to do and receive in  
this behalf as to justice shall appertain and that  
you monish moreover or cause to be monished pe-  
remptorily the Judge aforesaid his Surrogate or  
Surrogates and also his Registrar or Actuary or  
Actuaries that they transmit or cause to be trans-  
mitted the whole and entire Procefs had and done  
before the said Judge or his Surrogate in the said  
business in a proper and authentic form or in  
their

their original form within one hundred days after  
 service of this Monition under pain of the Law  
 and the peril which will fall thereon and that  
 you duly certify the said most noble and right  
 honorable persons or any three or more of them  
 what you shall do in the premises together with  
 these Presents Given at London under the seal  
 of our High Court of Delegates the twelfth day  
 of September in the year of our Lord one thousand  
 seven hundred and ninety four and of our Reign  
 the thirty fourth

Arden, Registrar of his  
 Majesty's High Court of Appeals  
 for Prizes -

Inhibition &c. Farguahan

(\* Seal appendant)

(\* see endorsement last page)

The Brigantine Betsey William Furlong Master  
 Instructions for executing the annexed  
 Inhibition Citation and Monition on Willis  
 Morgan Commander of the private Sloop  
 of War the Agonoria, or on his owner's  
 agent &c and also on the Judge and Re-  
 gister of the Vice Admiralty Court of Ber-  
 muda.

The

The person who serves the said Instrument must be one who can read and write and the mode of serving the same is as follows. — He must shew the original Instrument under Seal to Captain Morgan and leave with him a copy thereof, after which the following Certificate must be written on the back of the Instrument (under that which is already written) and the person making such service must sign his name thereto.

#### Form of Certificate

This Inhibition Citation and Monition was personally served on the within named Willis Morgan Commander of the private Sloop of War the *Agenorica* at \_\_\_\_\_ in the Island of Bermuda by shewing him the same under Seal and leaving with him a true copy thereof this \_\_\_\_\_ day of \_\_\_\_\_ 1792 By me A.B.

If Capt<sup>m</sup> Morgan sho<sup>d</sup> not be on the Island of Bermuda, or cannot be met with to be served, then the Instrument should be served on his owner, or in case of their being more than one, then on two of his principal owners, and on M<sup>r</sup> Joseph Outerbridge

60

who appears by the proceedings at Bermuda to have been agent for the Agenoria, and also on M<sup>r</sup>. Robert Tucker (one of the House of Mess<sup>rs</sup>. Jennings Tucker & Co.) who together with M<sup>r</sup>. Outerbridge gave bail in \$698.67 Bermuda Currency on behalf of Captain Morgan to answer the event of the Appeal.

It appears by the said proceedings at Bermuda that the Letter of Marque for the Agenoria was granted under Seal of the Vice Admiralty Court there on the 19<sup>th</sup> Nov<sup>r</sup>. 1793, so that by searching the Registry of that Court for the Entry thereof, the names of the owners of the Agenoria will be found. In case of the Inhibition being to be served, on the owners, agent and bail as abovementioned, additional Copies must be made thereof, and the original instrument under Seal must be shewn to each of the said Parties and a Copy left with each of them, and the person who serves the same must write and sign a Certificate on the back of the said instrument to the following effect, which must be varied agreeable to circumstances.

Form of Certificate in case Cap<sup>t</sup>. Morgan cannot be found to be served.

This Inhibition Citation and Monition

was

was personally served on M<sup>r</sup>. — one of the  
principal owners of the within named private —  
Sloop of War the Agenorica at — in the —  
Island of Bermuda on the — day of — 1798  
And on M<sup>r</sup>. — another of the principal owners  
thereof, at — in the said Island of Bermu-  
da on the — day of — 1798 and also on M<sup>r</sup>. —  
Joseph Outerbridge the Agent for the said Sloop and  
one of the bail to answer the within mentioned ap-  
peal, at — in the said Island of Bermuda  
on the — day of — 1798 and on M<sup>r</sup>. Robert Tucker  
the other bail to answer the said Appeal at  
in the said Island on the — day of — 1798 by  
shewing to each of the persons before mentioned  
this original Instrument under Seal and by leaving  
with them and each of them a true Copy thereof  
And I do hereby certify that I made enquiry after  
the within named Willis Morgan Commander of  
the said Sloop of War the Agonorica with an intent  
to have served him therewith but I have been  
informed by M<sup>r</sup>. — of — that he the said  
Morgan Willis is now at — and which informa-  
tion I believe to be true witness my hand  
A.B. The

61

The Instrument must also be served on the Judge and Register for the time being of the Vice Admiralty Court of Bermuda by shewing the same under Seal to each of them and leaving with each a copy thereof and the person so serving the same must sign the Certificate already written on the back thereof, the Blanks therein being first supplied - After the Instrument shall have been served in manner above pointed out, the person serving the same must make an Affidavit to the following effect which he must sign and be sworn thereto before one of the Magistrates of the Island

Form of the Affidavit

Before the Lords Commissioners of Appeals  
in Prize Causes.

The Brigantine Betsey William Furlong  
Master                      On the                      day of                      1794

On which day appeared personally A.B.  
of                      in the Island of Bermuda <sup>Mar</sup> Gent  
and made oath that the contents of  
the two Certificates endorsed on the  
Inhibition Citation and Monition here-  
unto annexed and to which he hath  
subscribed

subscribed his name were and are true

Same day the said A.B. was } A.B.  
duly sworn to the truth of }  
this Affidavit before me }

If it should be more convenient for  
the Instrument to be served by two or more per-  
sons on the different parties, it may be so done,  
and in that case, each must sign a Certificate of  
what he does, and each must also make an Af-  
fidavit as to the truth of such Certificate.

It seems necessary to observe that the only in-  
tention of serving the Judge and Register with the  
Instrument is to inhibit them from doing any  
thing in their Court respecting the Brigantine  
Betsey or her cargo pending the Appeal - the  
Appellant being already possessed of an authentic  
copy of the proceedings in the said Court under  
the Seal thereof.

After the Inhibition Citation and Monition  
shall have been served as before directed and  
the necessary Affidavit or Affidavits made the  
same should be returned to London by the  
very first conveyance that offers.

If a Duplicate of the Inhibition, which is sent  
out

out by another conveyance, arrives safe, that  
also should be served in the same way, and  
both the original and duplicate should be for-  
warded to London by different conveyances,  
in order that if one miscarries the other may  
come to hand.

(\* Endorsement on the back of the Inhibition)

This Inhibition Citation and Monition  
was personally served on the Honora-  
ble Esquire Judge  
of the Vice Admiralty Court of Ber-  
muda, at in the  
Island of Bermuda on the  
day of 1792 And on  
' Register of the said Court  
at in the said Island  
on the day of 1792  
by shewing to them and each of them  
the same under Seal and by leaving  
with them and each of them a  
true copy thereof  
By me

True Copy

Wm Lloyd Garrison

Second Edition

(Copy.)

Know All Men by these Presents, that Whereas John Jay Esq<sup>re</sup> Extraordinary from the United States of America to His Britannic Majesty hath made and delivered to me an Instrument in Writing under his Hand and Seal, in the Words following — Vist

To Samuel Bayard Esquire — Whereas the Secretary of State of the United States of America, hath officially informed me, that the President of the said United States has been pleased to appoint you Agent to manage Claims and Appeals in Cases of irregular or illegal Captures or Condemnations of American Vessels or other Property, under Colour of Authority or Commissions from his Britannic Majesty; And Whereas it will be necessary to the prosecution of the said Claims and Appeals, that the usual Security for Costs in each cause be given; And Whereas Henry Mottins Bird, Benjamin Savage and Robert Bird of the City of London Merchants trading under the Firm of Bird, Savage & Bird, have offered to become Sureties, jointly or separately, as may be required in the usual Summs and Form, for the Payment of such Costs as may be legally decreed against any such Claimants or Appellants, on the Faith and engagement of the said United States, to indemnify them for any Losses or Damages which they may sustain

sustain thereby; — And whereas I am Empowered  
and Instructed to Authorize you to Execute  
Bonds and make Engagements / under my  
Direction / to effectuate the said Purposes, Now  
Therefore, I do hereby authorize You, in your  
Capacity of Agent aforesaid, to pledge the Faith  
of the said United States to the said Bird,  
Savage and Bird, that the said United  
States shall and will, well and truly indemnify  
and keep harmless the said Bird, Savage and  
Bird, and each and every of them, and their  
respective Heirs Executors and Administrators  
from and against all Damages, Costs and  
Charges which they shall sustain or necessarily  
be put to, by Reason of their becoming Sured  
as aforesaid, And will, well and truly repay  
to them, their Heirs, Executors or Administrators  
whatever Sums of Money they, or either of them  
shall be obliged to pay on that account,  
together with Interest for the same, Given  
under my Hand and Seal the Third Day  
of January in the Year of our Lord One  
Thousand Seven Hundred and Ninety five —  
Know Ye, that the abovesaid Samuel  
Bayard Agent as aforesaid, Do Hereby pledge  
the Faith of the said United States to the  
Bird, Savage and Bird that the said  
United States shall and will, well and  
truly

64

truly indemnify and keep harmless the said  
Bird, Savage & Bird, and each and every of  
them, and their respective Heirs, Executors and  
Administrators from and against all Damages  
Costs, and Charges which they shall sustain, or  
necessarily be put to, by Reason of their becoming  
Sureties as aforesaid, and shall and will, well  
and truly repay to them, their Heirs Executors  
or Administrators whatever sums of Money,  
they or either of them shall be obliged to pay  
on that Account, with Interest for the same.  
In Witness whereof I the said Samuel Bayard,  
Agent as aforesaid, have hereunto set my  
Hand and Seal, at London, on the tenth day  
of January, in the Year of Our Lord, One  
Thousand, Seven Hundred and Ninety Five.

Sealed and Delivered in  
the presence of —

(signed)

Sam<sup>r</sup> Bayard

(signed) Jas. Graff & W. D. Todd

Clerks to Bird, Savage & Bird. Munch<sup>r</sup> London

Copy of <sup>the</sup> instrument of  
indemnity executed by S.B.  
to Beria Savage & Bird  
as drawn up by Mr Jay.

In ored in Mr  
Mayard's letter 2 Feb 95

(~~Copy~~ duplicate)

London 12. June 1795. 65

Dear Sir,

In my last of the 16 May, I mentioned to you that I would write you ~~by~~ on the subject of the <sup>claims &</sup> ~~American~~ appeals by the Rebecca, Capt. Bazin, sent for Phœad. This vessel will leave this port some time next week. By her I will do myself the honor of writing you & of sending the papers I have obtained in all the cases in which papers have lately come to my hands -

The object of the present letter is to inform you as fully as I am able in regard to the nature & operation of the late orders issued by the King's Council for bringing in all neutral vessels laden with provisions destined for France into British ports - In my letter to Mr Fitzgibbon by the Adriana which I left open for your perusal I mentioned the circumstances of one American vessel having been <sup>brought</sup> ~~sent~~ in at that time - Since which they have multiplied fast. - About 10. or 12. have already been sent in & ~~this number~~ every day is adding to their number. As soon as I can procure an accurate list of them I will

as myself the honor of forwarding it by the first conveyance  
I can command to see the captains as early as I can & give them  
every assistance & information in my power. - Many of  
them are highly exasperated at the conduct they experience  
here some cases not without reason. Hearing however less  
statements from some of them might be sent to America  
the present opportunity surcharged with the coloring of  
sentiment flowing from a feeling of unprovoked injury.  
I hasten to give you the earliest & most authentic information  
on the subject that I can collect. - The orders under  
which these vessels have been brought in, have not yet  
been made public. They have neither appeared in the  
Gazette, nor been sent to the Admiralty, of course no letters  
of marque or private vessels of war are possessed of them.  
We can only therefore judge of their extent by the manner  
of their execution. - The Indus from Ched. - the Light  
Horse from Salem laden chiefly with provisions for France  
have been sent in. The Adriana Capt. Fitzpatrick from  
Bourdeaux has also been sent in, under pretence of this vessel  
being belonging to the French. An American vessel also  
with provisions from Altona to Lisbon has been sent in.  
In short the plan is I understand to bring in all neutral  
vessels laden carrying provisions from whatever port they may

have cleared its whatever port they may be bound of there is any ground to suspect their real destination to be for France -

Since you will perceive that the scheme of starving the French into submission is not relinquished altho' notwithstanding every account from this quarter proves them to be well provided with every thing but grain.

At the first port to which the neutral vessels are brought the examination of the Captains & crew are taken & are forwarded hence with the ships papers as early as possible to the Court of Admiralty in this place. They are inspected by the King's Proctor, & laid before the King's advocate immediately - If there appears no just cause for detaining the vessel she will be liberated without delay. The cargo in every case will be taken & paid for by the gov<sup>t</sup>. They will allow only 10. p<sup>ct</sup> and I am informed on the original invoice price of the cargo. In most cases this will be a very inadequate compensation to the owner - The cargo in every case must be claimed in the admiralty as in case of capture & is restored by consent or by the order of the Judge - Doct<sup>r</sup> Nichols also informs me that freight demurrage & expenses will be allowed by gov<sup>t</sup>. & the King's Proctor assures me that an extraordinary degree of dispatch will be used in releasing captured vessels & in making compensation for their cargo -

Notwithstanding which I apprehend considerable delays from  
the quantity of business before the Court of Admiralty, & the small  
portion of time allotted to dispatch it. Several of our leaders  
complain <sup>being captured?</sup> of their hands by English vessels of war & English  
seamen put on board to bring them into port. Our sailors  
may have been exposed to wounds & deaths in fighting contrary to  
their wishes against their allies, while the American vessels are  
left destitute of hands as soon as they come into harbour, the  
English seamen being able to impress wherever they may be  
found by English vessels of war. There is little probability  
of neutral property on the ocean, being more secure ~~than~~  
than at present for this season. I have reason to think that the  
Gov<sup>t</sup> of this country will be more vigilant than ever in pre-  
venting France from receiving supplies in neutral bottoms.  
The Danes & Swedes are providing for the security of their commerce  
by increasing their naval armaments. Denmark is said to have  
laid a general embargo. Our citizens will act prudently in  
trusting as little property as possible on the ocean, bound to  
France. Perhaps even that which may be coming from  
France may be unsafe, but on this nothing certain can  
be said till we learn more —

I am Dear Sir with great regard & esteem  
Yours on 9<sup>th</sup> Oct. 1793. L. B. S. B.

S. B.

Copy May and June 12 June 1893

London 13 June 1795. 67

Dear Sir,

Inclosed is a duplicate of my letter to you of the 12 inst. sent by the Mary via Boston Since which, I have heard of but one american having been sent in. this is the Betsey. Capt Brown of Newbury port.

I have seen Sir William Scott on the subject of these vessels. He seems disposed to facilitate their discharge as early as he possibly can. He declared to me that he had not yet seen the orders issued to the Commanders of his Majesty's vessels of war but that the chief reason of the measure was to procure a supply of grain & of flour for this country. "Such is the want of these articles" said he, "that every vessel laden with them, sent in, is really an acquisition. Government will take the whole of every cargo, unless the Capt<sup>n</sup> or agents of the <sup>neutral</sup> vessels (after the provisions are taken out) are willing to proceed with the rest.

of the cargo in which case Gov.<sup>ts</sup> will be much obliged to them." From the conduct of the commanders of the King's ships, one would suppose that their orders were to bring all neutral vessels whatever their cargoes or destinations might be. I have seen the Captain of a Danish vessel whose cargo consisted only of empty bottles, & some head of an American vessel (the Georgia Packet <sup>last</sup> from Bristol) with a cargo of the same article that have been sent. Yet a gentleman who has seen at one of the out ports a copy of the orders in virtue of which these neutral vessels are "detained & sent in" tells me they extend to such vessels only as are laden in part or in whole with provisions.

The wind has been from the eastward for <sup>several</sup> ~~about~~ a week past, or it is probable more American vessels destined for France would have reached the English port. Yesterday the wind changed, & I have no doubt but that we shall <sup>to-morrow</sup> hear of new arrivals of the above described kind in addition to the squadron kept constantly on off the French coast, the Grand fleet under Lord Briscoe is at present in the channel to intercept all supplies going to France. We know not yet with certainty at what rate the British Gov.<sup>ts</sup> will set

for the cargoes of the vessels that sent in. - It is <sup>68</sup>probable  
this may be left to the Registrar of the Admiralty &  
two merchants who in reporting the sum which Gov<sup>t</sup>  
should pay will be governed by the peculiar circum-  
stances of every case. The allowance made to the Danes  
& Swedes sent in last year was 10 p<sup>er</sup> cent on the invoice  
price of their cargoes.

Several of our vessels have already  
been released, when the value of the cargoes with the  
expenses &c will be paid it is impossible at present to  
say. Sir W. Little informs me that Denmark has not  
laid a general embargo as I have mentioned in my letter  
of the 12<sup>th</sup>, but that on the subject of detaining & sending  
in such vessels as are laden with grain intended for  
France, there is a good understanding between the  
Govern<sup>t</sup> of that country & of this -

The Adriatic Capt. Fitzpatrick is released with  
freight. her cargo there is grain &c to be sent in French  
As she will sail shortly for Philad<sup>a</sup>. I hope to have  
the pleasure of writing you again by her -

I have the honor to be with great respect & esteem

Secretary of State

Dear Sir your m<sup>ost</sup> obed<sup>t</sup> &c

Samuel Bayard

The Honorable.

Samuel Ranaolph Esq.

Secretary of State for the U. S.

W. H. K. by air  
via New York.

Philadelphia

Rec'd 10 Oct. 1795

By air 18 June

Squadron. 27. June 1795— 69

Dear Sir

Since I had last the honor of writing  
you by the Lydia, for New York, on the subject of  
the American vessels that have been detained & sent in  
by British Cruisers, several others have arrived in port  
a list of which I shall subjoin:—

I have several times lately call'd on ~~the~~ Sir  
William Scott, & on the Kings Proctor, Mr. Mylchreest,  
to obtain information respecting the measures to be  
pursued in regard to these vessels; and last evening  
I attended the settlement of a case before the merchants  
who with the Registrar of the Admiralty are appointed  
to ascertain & report the sums which Government is  
to pay to the Neutral claimants—

The result of the information, I have been  
able to collect from these several quarters is—  
that the late cases of detention of American & other

neutral vessels will not be put on a different footing from those of last year, ~~except~~ in any respect except as to the mode of settlement, which I have reason to believe will be in general, be more expeditious.

After restitution of vessel & cargo, or either of them has been decided, by consent of the Kings Advocate & Proctor, the account of the freight, demurrage & expenses is to be brought in, & laid before the Registrar and Merchants - they examine the same & thereon report the balance which Government is to pay the Neutral claimants.

To avoid delay in this stage of the business money has been put into the hands of Mr. Claude Scott the Agent of sales on behalf of Government who immediately discharges the sum awarded by the Registrar & Merchants, & exceptions are taken to their report. Payment for cargo will be delayed until Mr. Scott makes return the same, on the invoice price of which, 10 p.c. will be allowed no more, as I last evening was informed by the merchants who settle the allowance —

In my conversation with Sir William Scott he took occasion to suggest as his opinion, & as that of the Lord of Appeal that a power <sup>or other direct authority</sup> of Attorney, from each of <sup>the</sup> American claimants & appellants to me, would be essentially necessary for the prosecution & settlement of their several causes, under my direction. The power of transferring, to another the authority vested in me by individuals, should not be withheld or forgotten by those citizens whose interests I have in charge; as circumstances may render this step advisable - perhaps absolutely necessary.

I have the honor to be  
with perfect respect & esteem  
Sir Your m<sup>o</sup>. ob.<sup>d</sup> serv<sup>t</sup>.

Sam<sup>l</sup> Bayard

List of Vessels belonging to citizens  
of the U. S. lately sent into port by British cruizers. taken from Lloyd's list.

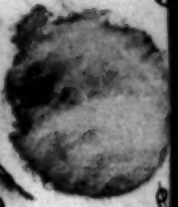
June -	Betsy -	Mahomet -	from Boston -	sent into -	Plymouth,	by adm <sup>l</sup> .
-----	St John -	Iris -	.....	Phila <sup>a</sup> -	Do - - -	} Comm <sup>l</sup> & guar <sup>l</sup>
....	Bachus -	George -	.....	Do - - -	Salmon <sup>l</sup> -	
inf	Three Sisters -	Swamus -	Savannah -	Do - - -	Do - - -	}

Philadelphia & FREE  
Emmaund Randolph Esq.

Secretary of State for the U. States

Philadelphia

recd. 23<sup>rd</sup> August 1845



and in the

London 4 July. 1795.

71

Dear Sir

I send you by the present conveyance a copy of the Report of the Commission of 11. of a new constitution - I had the pleasure of rec<sup>d</sup> only of the first copies which reach'd London in 72. hours from Paris - I instantly transmitted it to the editor of the Morning Chronicle - from which copy the enclosed translation was made -

I have nothing new to communicate on the subject of the <sup>at St. J.</sup> - the first by the return of the <sup>at St. J.</sup> - that Mr. Jay <sup>at St. J.</sup> arrived safely on the 27. May. - I may therefore soon expect those instructions from you which could not finally be framed until after a conference with Mr. Jay -

I am with perfect respect  
Yours. D<sup>r</sup> Sir

Yours most obed<sup>t</sup> serv<sup>t</sup>

Sanctuary

The Honble -

Edmund Randolph Esq

SEPT 1  
FREE  
The House.

Edmund Randolph Esq.

Secretary of State

From the

City of New York Philadelphia

General in-  
structions.

Bayard Jan. 4 July  
see 22<sup>nd</sup> 1793

Handwritten text on the left margin, partially visible and illegible.

July 4

Further Lists of Vessels belonging  
by the British Cruisers in which Claims and  
of Samuel Bayard the Agent for Claims and

No.	Vessels	Masters	Owners & their Residence
153	Dove Schooner	Isaac Saxels	Robert Taylor of Baltimore in the State of Maryland
154	Patty Schooner	Isaac Taylor	Daniel Scott of Charleston in the State of Massachusetts
155	Margaret Ship	Isaac Merick	Paul Bentall of Baltimore in the State of Maryland Owner of Ship and Cargo
156	Friendship Brig	Isaac Coleman	Jonathan Shum, The Henry Isaac Mr. Latham, The Crockett said Is. Coleman the Master of the said ship in the State of Massachusetts
157	Little Cherub Schooner	Isaac Watts Mr.	John Thole of Portland in the State of Massachusetts
158	Hope the L'Esperance the	Isaac Paddock	William Retch & Samuel Redman of Manchester in the State of Massachusetts
159	Betsy Schooner	Francis Young	Mr. Carthy & Hasling Newbury in the State of North Carolina

to Citizens of the United States of America, taken  
 have been entered by and under the Direction  
 11. July 1795 by the Ruby.

Whom Captured	Place of Seizure	Remarks
Privateer - Privateer M <sup>r</sup> Broadley Comr.	S <sup>t</sup> Christopher	Inhibition now sent to be served on Capt <sup>n</sup> Broadley to enforce Appearance and on the Judge or Registrar to transmit Process
Privateer M <sup>r</sup> . Brownlow Comr.	Bermuda	D <sup>o</sup> D <sup>o</sup> D <sup>o</sup>
King's Ship's Officer Philip - B. S. Rowley Esq Thomaine J <sup>r</sup> Hill Comr. Armed Schooner Fisk - J <sup>r</sup> Provost Comr.	Jamaica	Inhibition now sent to be served on Capt <sup>n</sup> Provost to enforce Appearance from the Registrar transmit Process
Privateer M <sup>r</sup> . Henry Comr.	Dominica	D <sup>o</sup> D <sup>o</sup> D <sup>o</sup>
Privateer M <sup>r</sup> . H. Shaw Comr.	Bermuda	D <sup>o</sup> D <sup>o</sup> D <sup>o</sup>
Privateer James Fopper Comr.	Barbadoes	D <sup>o</sup> D <sup>o</sup> D <sup>o</sup>
Privateer James Patterson Comr.	Jamaica	D <sup>o</sup> D <sup>o</sup> D <sup>o</sup>

Nos	Vessels	Masters	Owners & their Residences
160	Potomack Brig	Robt Cham	John Templeman of Georgetown in the State of Maryland
161	Rising Sun Ship	Thos. Wilkie	James Vanuxem of the City of Philadelphia and State of Pennsylvania Owner of the Cargo.
162	Industry Schooner	Robt. Crozer	David Spear and Joseph Ripley of Boston in the State of Massachusetts Owners of Ship and Cargo
163	Polly - Brig	Jno. Langdon	Stephen Girard of the City of Philadelphia the Owner of Ship and Cargo
164	Republican Schooner	Charles Kerr	William Shales of the State of Connecticut, Redash Paddock of the State of New York & Aaron Dault of Newburg in the State of Massachusetts Owners of Ship on board is
165	Atlanta Schooner In	Jno. Waterman	David Gilston of the City of New York and State of New York
166	John - Bark	Jno. Pollard	Lewis Bonard of the City of New York and State of New York
167	Commerce Ship	Isaiah Mayes	Miles Britton & Mayes of the City of Philadelphia and State of Pennsylvania

Whom Captured	Place of Adjudication	Remarks
Magistrate's Clerk of War John George Murray Comr.	Halifax	Inhibition now sent to be served on the Judge or Registrar to transmit Process.
John J. Hermoine vs. Hill & Co. Comr.	Jamaica	D: D: D:
Privateer Vladimir Henderson Comr.	Bermuda	Inhibition now sent to be served on the Captains to enforce — Appearance but not on the Judge or Registrar the Process having been already received
Privateer Robinson Comr.	Bermuda	D: D:
Privateer John Mack Comr.	d:	D: D:
Privateer Thomas Cobb Attorney	d:	D: D:
Privateer Miller Comr.	d:	D: D:
Privateer Durham Hall Comr.	d:	D: D:

No.	Vessels	Masters	Owners & Their Residences
168	Mahala Schooner	Edw. Madsen	Nathaniel Windsor of Dorchester in the State of Massachusetts
169	Harriet Eliza Bark	Andrew Sherman	Caleb Stark of Dunbarton in New Hampshire
170	Eliza Ship	Thos Lewis	Adam Putnam & Co. of Charleston in the State of South Carolina
171	Patty Brig	David Wilson	John Gordon & William Gordon of Baltimore in the State of Maryland
172	Mary Ship	Jas Buchanan	William Wilson John Polk James Patton and David Fenley of Alexandria in the State of Virginia
173	Merciano Ship	Wm Perry	John D. Blanchard, Thos Britton & Wm Mafey all of the City of Philadelphia
174	Polly Snow	Oliver Hamilton	Leeds Washington and Bailey of Colchester in the State of Virginia
175	George Washington Brig	Wm Mason	James Ford of the City of Philadelphia

Whom Captured	Place of Seizure	Remarks	
<p>James Douglas Comr</p>	Jamaica	<p>Inhibition now sent to be served on the Captains to enforce Apperance but not on yr Judge or Registrar the Proof having been transmitted</p>	
<p>Comr Francis Parker Comr Africa Ratham Comr Rye Comr</p>	Halifax	<p>Inhibition not sent, having been served on the Magistrate, Parker and the Proof being transmitted</p>	
<p>Comr Thos. Thos, Hambro Comr Forester Cochrane Comr</p>	do	D <sup>o</sup>	D <sup>o</sup>
<p>Comr Schommer Comr J. J. Carpenter Comr</p>	S. Dominica	D <sup>o</sup>	D <sup>o</sup>
<p>Comr Schommer Comr Murray Rye Comr</p>	Halifax	D <sup>o</sup>	D <sup>o</sup>
D <sup>o</sup>	D <sup>o</sup>	<p>This Appeal being for Freight only, it is to be submitted to Council before any steps are taken</p>	
D <sup>o</sup>	D <sup>o</sup>	D <sup>o</sup>	D <sup>o</sup>
<p>Comr Thos. Thos, Hambro Comr Forester Cochrane Comr</p>	D <sup>o</sup>	D <sup>o</sup>	D <sup>o</sup>

Nos	Vessels	Masters	Owners & their Residences
576.	Susanna. Bingham	Robert Lillibridge	Wholesale Care of the City of Philadelphia

Ships Captured

Place of  
Adjudication

Remarks

Regatta Ship

Capt - John Hughes

Comd.

Halifax

This Appeal being for Truight  
only, it is to be submitted to  
Counsel before any further  
Steps are taken

best of friends  
to which I hope have  
been introduced by -  
James Hayward Esq

11 July 1795.

James

London 11. July 1795.

76

Sir,

By the *Replay*, that sails to-morrow  
I have the honor of sending you 16. Inhibitions  
that have been ~~lately~~<sup>been</sup> obtained in cases that have  
recently come under direction - These inhibitions  
with the list that accompanies them have this  
moment been sent me by Mr. Stade -

The box of papers which you put under the  
care of Gen<sup>l</sup> Wallcutt's passenger on board the  
*Mercury*. I only received yesterday. I have <sup>sent</sup> Mr.  
Deas. those directed to Mr. Puckney, & those recom-  
-mended to his care - the packets for Mr. Johnson  
I have sent <sup>him</sup> also those packets addres'd to the  
different American Consuls - The papers  
sent by the *Wm. Penn* have not yet come to  
hand - but <sup>as</sup> the expected in a day or two, I shall  
be able to say something of them by the *Adriana*

A mysterious hesitancy in regard to hearing &  
deciding on the American appeals appears at the  
Cockpit. I have my fears that a cloud is  
collecting there which nothing save the resolute  
conduct of the Government of the U. S. well depicted  
can the delay <sup>in</sup> settling principles in cases  
from <sup>the</sup> U. S. arise from a wish to hear first of  
the ratification of the treaty negotiated by Mr. J.  
I am at a loss. I will therefore leave events  
to clear up the doubts I am compelled to entertain  
& entertaining - think it my duty truly to disclose  
to yourself.

I have the honor to be

Dear Sir, with due respect & best wishes  
to you  
Your most obedt. servt.

Saml Bayard

The Honble The Secretary of State -

(not official)

London 16. July 1895. 77

Dear Sir,

The letter bag of the Ruby will  
leave the coffee house where I now write, <sup>in</sup>  
a few minutes - I avail myself of the last moment  
of the day to give you whatever information  
I am poss<sup>d</sup> of which I think may be interesting

By a letter which I this day rec<sup>d</sup> from  
Mr Symonds the American Vice Consul at  
Plymouth, dated the 14<sup>th</sup> inst. I find that a number  
of am<sup>er</sup>ic<sup>an</sup> vessels laden in part or in whole with  
provisions - destined for France have been sent into  
Plymouth - a list of such as have come to the know-  
ledge of Mr Symonds, I shall subjoin for the infor-  
mation of such as may be interested in the same.

In several of those recent cases of seizure & detention

1795

Recd Dec 1795

Mr. H. H. H.

Samuel Davidson Esq

John J. H. H.

Antony J. H. H.



Saturday the 10.<sup>th</sup> day of July 1795. At the  
Council Chamber Whitehall

Present Earl of Mansfield Lord President of  
the Council

Sir Rich. Pepper Alder. Port. Master  
of the Rolls

Sir Will.<sup>m</sup> Wynne Port.

Silvester Douglas Esq.

Charles O'Brien Esq.

In the presence of,

Robt. Denny Notary Publick  
one of the Deputy Registrars

The Lords declared that after the  
expiration of nine months from the 1.<sup>st</sup>  
day of January last, in cases where claims  
were given in the Court below and after  
the expiration of twelve months from  
where no claim was given in the Court below  
the said 1.<sup>st</sup> day of January no appeal  
shall be prosecuted from any sentence  
given in the Court of Admiralty or  
Vice Admiralty Courts belonging to this  
Kingdom.

Accounting letter from  
Mr. Rayard of 29 July 95

79.

List of names in which appearances have been or will shortly be given and prospects reviewed and which will probably be heard in the course of the Winter.

Names of the Cause.	By whom the appearances have been given? or not.	prospect if
dooner Malanta — Waterman. to be given by Heseltine.		prospect not.
dooner Betsey — J. H. Belliston. Heseltine will appear.		Ditto.
of Farmer — Osborn. Heseltine.		D.
back Good Intent — Archer. Bishop.		D.
dooner Harriet — T. Smith. Heseltine will appear.		D.
ing Harriet — Calder. Bush.		D.
de Hope — Passock. Walter.		no prospect
ing Jane — Lillibridge. Heseltine will appear		prospect not.
ork John — Holland. Heseltine. Ditto.		Ditto.
dooner Nancy — Florence. Bush.		D.
de Pigion — Lewis. M. Heseltine.		D.
ing Eun — Olney. M. Cupwell.		D.
de Samson — Barney. Heseltine.		D.
Sally — Hayes. Heseltine.		D.
Mally — Hays. Heseltine.		D.
Sally — Anderson. Bush.		D.
Sally — Choate. Cupwell.		D.
Salome — Wapow. Heseltine will appear.		D.

at it is probable appearances will be given for  
any more?

*[Faint, illegible handwriting on a grid-lined page]*

*[Handwritten notes in the right margin, partially cut off]*

Guilford street. 28. July 1795.

80

H. A. Dear Sir,

As Agent of Britain I appeal for  
the United States, & particularly at the immediate  
Agent of a number of American citizens whose property  
has recently been taken sent into British ports by  
the Majesty's vessels of war. I feel myself impelled  
by duty & the regard I owe to the interests of my  
fellow citizens to state to you the circumstances  
of hardship under which some of them labour from  
which they can expect relief only thro' your inter-  
position with his Majesty's government.  
Those who have lately shipped cargo from  
America consisting entirely or principally of grain  
flour or other provisions allege that they will suffer  
a very considerable injury if they should be compelled  
to accept of a lower price for the same than they are  
able to obtain in the market.

They therefore consider it as but just & reasonable  
that after having been brought into British ports  
in ~~violation~~ <sup>contrary</sup> to their destination, they should at least  
be allowed to dispose of their cargoes themselves or of selling within their  
respective countries or of sending them to  
his Majesty's Government on the usual terms - the  
visions to be sold to the agent of government & the  
other cargoes - to whom - where they please  
It is hoped that a general order to this effect may  
be granted - that each individual may not be obliged to  
make a special application for this privilege in every  
instance. In those instances where a settlement may  
have been made the party sustains an injury  
by the seizure of the cargo on the first coast of the  
country, & in such case & should any such occur, it is  
hoped that relief will be made good to the sufferer.  
And finally where a report is obtained here or elsewhere  
that any vessel on the part of the American  
Charterers or their agents, or by the delay in making  
their cargoes making tardy or incorrect returns of

81  
same &c. It is hoped the American owner or Capt.  
will receive be allowed his demurrage & expenses  
without regard to the date of the order for the  
restoration of his vessel & cargo.

Should his Majesty's government be disposed  
to accommodate the American claimants lately taken  
in into British ports, in the above particulars  
it would evince a regard to their interests & that  
would be gratefully acknowledged.

I have the pleasure to be  
Dear Sir

Your friend & very obdient  
Saml Bayard

I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the matter of the American owners of the schooner "The Fish Hawk" and in answer to inform you that the same has been forwarded to the proper authorities for their consideration.

I have the honor to inform you that the same has been forwarded to the proper authorities for their consideration. I have the honor to inform you that the same has been forwarded to the proper authorities for their consideration.

I am very pleased to be  
 Dear Sir

Very truly yours  
 J. M. [Signature]

Received in letter from  
 Mr. [Name] dated 25th Augt  
 1845

Sir

London: 29 July 1795

82

In my letter of the 17 June which I had the honor of addressing you by the Lydia via N. York. I mentioned the steps taken on the part of Sir John Jarvis & Sir Charles Grey to postpone the hearing & decision of these suits against them. By the means I had used to hasten the conclusion of that business. Since which time I have urged our Proctor who has the charge of conducting these suits to prep for as early a day as possible to be appointed by the Court for the Captains to bring in the Ships papers in those cases of seizure & confiscation, where motions for this purpose had issued against Sir J. Jarvis. The Kings Proctor wish'd to be allowed until the last of pinch term which will be about the 12. - possibly as late as the 15. of December ensuing. To this he wish'd my consent. to which I did not think myself justify'd in giving as upwards of a year had elapsed since the vessels in question were taken & sold at Martinique. W. Lewis -

accordingly I directed Mr. Tansley to move the Court  
to assign as early a day as possible for the Kings Proctor  
to bring in the process & ships papers in those suits against  
and Jervis - the Court heard Counsel on the subject, & to my  
great surprise granted the remotest period prayed on  
behalf of the Captors, namely to the middle of next Decr.  
I understood is a minute entered of record by the Registrar of  
the Admiralty in those cases -

I fully expected <sup>to be able</sup> to inform you of this by this time  
of the issues of the Commissioners of Appeals in several  
cases of importance. I am prevented doing this by the  
postponed hearing of one leading case that has long been  
ready for argument, & by the final issues in other cases  
being withheld, that have been discussed several weeks ago  
as an act of the ratification of the Treaty has this day  
received, perhaps the Lords may in future proceed to give  
a position to in the hearing & determination of the  
can ~~appeals~~ cases. The Court of Appeals has not risen as  
was expected they would have done on Saturday last, but on  
Monday next (1. of August) I understand that both the Court of

Admiralty. The board of appeals will not sit  
again until regularly, until the next term which will  
commence on the 4. of November. The Judge of the  
Admiralty will sit on the 1. of Sept. & the 1. of Oct. to hear  
motions. Sir W. Scott has promised me that he will obtain  
one or more sittings of the board of appeals for the same  
purpose should they be necessary. In order I have the honor  
to forward a copy of their order made on last Saturday  
week fixing the period within which they shall receive  
appeals from sentences of inferior Courts of Admiralty  
or Vice Admiralty in American cases. Having directed the  
King in Council for extending the time of entering  
appeals in these cases to be deemed made. Considering it to  
have been made on the 19. Aug. 1794. they thought it  
reasonable to allow until the 1. Jan. 1795. for the order  
to be recd. by any government & generally known that  
the U. States from the date last mentioned they allow  
grant 9. months for the entry of an appeal where a  
claim has been made. & 18 months when a claim has not

been made in behalf of those <sup>in need of a case</sup> ~~concerned~~ <sup>either in the</sup>  
High Court of Admiralty here, or in a Court of Vice Admir-  
alty abroad. Should you apprehend that our citizens  
will be too compromised in their pursuit of justice by  
this order of the Lords, by instructing our minister at the  
Court to request a new order of Council authorizing the  
Court of Appeals to extend the time for the entry of ap-  
peals from decisions of the Courts below, I doubt not  
but the order of Council would be renewed.

I shall wait with impatience to observe the effect which  
the ratification of the treaty will produce on the Coun-  
cils of Appeals. But from what I have lately observed  
myself, & from the best information I have been able  
to collect from others respecting the character & opinions  
of those members of the Privy Council who usually sit  
at the Cockpit, I do not draw the most flattering  
conclusions as to the fair & liberal extension of the pursuit  
of justice to American citizens, by this body. I fear  
after they have decided on our cases, the regard I owe  
the interests of our citizens will oblige me to bring the  
question

84.

In what I have said above I think you will find me fully supported by the decree of the Lords in the case of the *Bute*, Capt. Furlong made on Saturday last. - This case was brought forward on the part of ~~the former~~ <sup>the</sup> Messrs George Patterson by their former agent here, who from the assurances of Sir ~~John~~ Scott of counsel for the claimants & from the circumstances of the case, had no doubt of success. - Perhaps it is as favourable a case as 9-10ths in which I am convinced as agent - that the sentence of the Vice Admiralty Court should in this instance have been affirmed by the Lords of Appeal is a circumstance which I think must excite the astonishment of our government & the apprehensions of all such of our citizens as look to the justice of the Lords of Appeal for the restitution of property illegally condemned by the Judges of the Courts of the Admiralty.

I shall send you six by the present conveyance one  
of the printed cases with the evidence on each side.  
I was so unfortunate as not to hear the argument &  
determination of this appeal, being then detained at  
Dorchester Commons by some of the late cases of seizure  
& detention. I have however been favoured with the  
notes which one of the printers who did attend took on  
the occasion. From these & the printed evidence I  
was enabled briefly to state the case. The arguments of  
counsel <sup>with</sup> the decree of the Court I have promised to commu-  
nicate the same to Mr. Bradford for the information  
of our govern<sup>t</sup>. - I am myself - the Attorney General of the  
United States -

In your letter of the 6<sup>th</sup> of April last  
you instruct me "after having elapsed all the claims  
" appeals to take the opinion of the Court or Commission  
" on the principle of one of them - if the principle should  
" be decided in our favour, to proceed with the total  
" number - if against us to advise with Counsel upon

I ascertain whether it contains any point which may distinguish it from the rest. I have the whole before me. I like there can be no hope of success after the principles that have proved adverse in one."

As to the case of the Pottery, I do not find that the Lords have proceeded on any principle whatever. They seem to have wholly disregarded the reasons assigned by the Patent Council as the ground for condemnation. It has taken up a circumstance the principle of which (if it contains any) cannot surely be found either in law, or justice warrant the decision of the Commissioners of Appeal. I understand from the

Proctor for the Appellant, from Mr. Stace who was present when the case was argued that the Master of the Rolls declared that the ground of their decree was contained in the letter of Mr. G. Patterson to his Brother (No 3. of the Perkins notes appendix) in which the former requests the latter to send a second cargo to Guadaloupe after the French government had seized the first.

I have drawn a line under these obnoxious expressions  
where I am informed govern'd the opinions of their  
honors, the true language of fashion appears to me  
to be this. "There can be no breach of neutrality in  
carrying provisions to any port unless it be actually  
blockaded. Such unquestionably is not the situation of  
Guadeloupe at present, nor in my judgment likely  
to be so for some time to come. - of course I am at  
liberty to send to Baltimore for another cargo, which  
I may possibly sell or barter to advantage - I will  
take the risk."

Now unless it be first settled that place  
can be blockaded by Proclamation & that the French  
Islands were actually so by the in virtue of the one  
issued by Mr. J. Jervis, this decree can have no other  
foundation than that of arbitrary power. I had no doubt  
I must confess, that the principle of blockading by  
proclamation would ever be seriously contested  
for. If it be admitted a large class of the claims & appear  
under my charge - involving <sup>the fate</sup> of much property, may as

be abandoned at once. The promotion of them would only be throwing away money in pursuit of a shadow.

The Lords in their decree in the case of the Betty have gone a length wholly unprecedented in the history of male fides and provable against the merchant, they have by affirming the sentence of the Judge below in toto. condemned the claimant in costs for having made a claim - for having done what is the indispensable duty of <sup>every</sup> Captain of a vessel, of every agent or consignee who has the charge of a cargo.

Since the decision <sup>in this</sup> case I feel no regret at the circumstance of the Court of Appeals being after Saturday next. I shall probably be able to hear from you before their next meeting in November. In the mean time I shall advise those private agents who have the charge of any American appeals, if they rest on similar grounds with those in the Betty's case, not voluntarily to bring them to a hearing until I shall have heard from you in answer to the present letter.

When the Lord is to continue their settings, I doubt  
whether there are any of the cases under my direction  
that would be ready for argument before November  
next. Since the late decree the Galters agents will  
doubtless be anxious to obtain as early a hearing as  
the Lord will grant them. On this point, I interest myself  
not to take any steps that will lead to a determination  
but on the contrary if kept by the Galters to pre-  
mature decisions in any aspect until I have  
received instructions from our relation to West of  
of cases, the general features of which resemble those  
of the Pothys case. Until an opportunity has been  
of making redress in another direction. This I  
for granted will be the case from the prospect  
hold out in your letter of the 6<sup>th</sup> of April in which  
supposing the opinion of the Commissioners should be  
adverse to us in any class of cases, you tell me "I will  
" be <sup>inclined</sup> ~~advised~~ to drop them altogether, because an effort  
" probably be made concerning them in another quarter

Should the claimant's property be recovered for the  
American claimants, if their case in the first instance  
could be brought for decision before the Commissioners  
to be appointed pursuant to the treaty. In case they  
should determine in favour of the American citizen  
then to settle & ascertain direct the value of his property  
that had been illegally condemned, with costs & damages  
to be paid immediately by the British government,  
wherein should afterwards decide the option either in  
relinquishing the property to the captors, or of pursuing  
it in the name of the American claimant - at its own  
expense - in its own courts. For its own use. A plan  
of this kind I apprehend would have few difficulties to  
be overcome besides those which might arise from the  
private interest of the officers of the Courts of admiralty.  
here. It would ensure an early & adequate restitution  
of our captured property without the U. States incurring  
the enormous expenses which at present appears to be  
necessary incident to the prosecution of the American appeal

It would be the means of settling amicably & finally  
 points upon which the national interest & prejudices of  
 the present point of application will with probability  
 be made to appear as to render negotiation a  
 last inevitable. - Yet would I doubt not fully  
 the wishes of our citizens, & the approbation  
 all the liberal minds of the British nation -

Duplicate  
 Recd. Oct. 29. July  
 Recd. Oct. 17. 95

Case  
 D. 20. 95  
 W. 20. 95

I have the honor to be  
 Sir, your most obedt. servant

Yours most obedt. servant  
 J. M. B. [Signature]

The Secretary of State

(Duplicate) by the Hope (Haley) original by Mrs. Adams  
 Capt. [Signature]

Extracts from a letter of Mr Sam<sup>l</sup> Bayard  
to Anas Bayard dated London 26<sup>th</sup> - a 30<sup>th</sup> July 1795

"With the best disposition to think favorably  
of the intentions of the English cabinet I have been  
oblig'd against my inclination, by the late conduct  
of the Lords of appeal, to believe that they have  
no intention to do us substantial justice - with  
ourselves alone, it will ultimately rest to do our-  
selves justice - to rest on any other ground is  
"leaning on a broken staff" - The decision of the  
Lords on the case of the Betsey, a Vessel belonging  
to our friend W<sup>m</sup> Patterson of Baltimore, has settled  
my belief respecting their disposition to act impartially  
to conciliate the public mind of America -

I intend making a short statement of this case  
which I shall transmit to Mr Bradford for the  
information of the Merchants -

"taking the case of the Betsey as a precedent  
I do not think we can expect <sup>the restitution of</sup> more than one out  
of ten of our vessels that have been condemn'd -

The Lords of appeal are awkwardly situated  
having as members of the privy Council been con-  
cern'd in issuing the Orders of the 6<sup>th</sup> Novem<sup>r</sup>.  
they

they must bear their proportion of blame if the  
Nation is hence saddled with an increase of debt  
as it must be if they decree restitution & the Captors  
are not able to make it - another strong motive  
against their decreeing the restoration of American  
Vessels & cargoes, is, that if the Captors should happen  
to have <sup>made</sup> distribution of the proceeds of the captured  
property (which has often been the case) here the  
commanding officer in the first instance becomes  
liable & obliged to refund the whole - For the situation  
of these Officers, the Lords appear to have a very  
lively concern & are very cautious as one of them  
express'd himself in my hearing "of tearing  
these Officers to pieces" -

Sir

The foregoing extracts from the letter which I have lately received from my brother, contain all that is mentioned therein relative to the business of his mission, being intended only for my information, he has not expressed his sentiments, perhaps, with the same accuracy, that he would have done had he expected they would be shown to others, — I leave it with you, Sir, to make such use of them as you may judge to be most expedient I remain

with due respect

Your Obedt. & humble Servt.

And<sup>rs</sup> Bayard

Hon<sup>ble</sup> Timothy Pickering Esq.

1. Journal Letter

Ad. B. 1. 1. 1.

95

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Wm. H. Burdett

Brig Rachel - Capt. Roberts - from N. York. to Nantz -

90

Do Harmony — Baob — Do — Do —

do Nancy — Potter — do — do —

Ship Harmony — Robinson — Battemon — do —

do Catharine — McCollom — Philada — do —

Brig Friendship — Clap — Portland — do —

Ship Virginia Packet — Will — Virginia — Bonarua

Michael's letter  
from Mr. Bayard  
16 July 1795

The Secretary of State.

London. 25. August. 1795.

91

Dear Sir.

I had the pleasure to receive last week your letter of the 27. June. by the Adm. The information it contained we had received from various quarters, a considerable time prior to the arrival of this ship. We are all at present extremely anxious to learn what proceedings the President will adopt in consequence of the Senate having advised him to ratify the treaty with the exception of the 12.<sup>th</sup> article.

As the Court of appeal in prize causes - & of admiralty rose at the time mentioned in my last letter of 29. July. I have nothing to communicate to you on the subject of the claims - my attention is now daily occupied in facilitating the settlement of the business of those vessels & cargoes.

lately detained & sent in by British Cruisers -

In general we have no ground to complain of delay in the dispatch of these cases. - altho. the compensation for the cargoes viz<sup>d</sup> - for demurrage & expenses are less than in justice we have a right to expect.

The papers you sent me under care of Genl. Matternsford. I have already informed you were duly received. - As it was not in my power to forward the packets address'd to the different American consuls I consulted Mr Deas. on the disposition I had best make of them. - He agreed in thinking it would be most proper to send them to our Consul who from his daily intercourse with the Captains from every port in Europe would be able to forward them ready. Accordingly I sent them to Mr Johnson who to my surprise refused taking charge of them. - I have since applied to Brd. Savap & Child. - who cheerfully consented to assume the care of them, & who have since dispatched the greater part, of them to the consuls for whom they

were intended -

I have received the papers in those 10 cases that were sent by the Roebuck via Bristol. I have put them into the hands of our Proctors -

Inclosed is a duplicate of my letter of the 29<sup>th</sup> July. - Also my letter to Mr Deas on the subject of those late cases of seizure & detention -

I have the honor to be

with great respect & esteem

Dear Sir

Your m<sup>o</sup>. ob<sup>d</sup>. serv<sup>t</sup>

Saml Bayard

Deputy main: 2000.

rec'd. Oct. 1795

via M. P. M.



List of vessels belonging to Citizens of the United States  
taken on behalf of the owners until further information respecting them is

Vessels	Masters	Owners & their Residence
1. Neptune Sloop	Edw. <sup>d</sup> Staples	Thos. Adams & Robert Gray of Boston
2. Harmony Brig	Ja. <sup>s</sup> Dumphy	Ambrose Vase & Chas. May of Philadelphia
3. Delight Schoon.	J. Sturgis	James & Thos. H. Perkins of Boston.
4. Sally... Schooner	Woodbridge Grafton	Danl. Saunders of Salem.
5. Lyon Brig	Edw. <sup>d</sup> Simpson	Thos. Saunders of Salem.
6. Mahala sch.	Eden Wadsworth	Jonathan Williams of Boston
7. Success Schoon.	Rob. <sup>t</sup> Holmes	Danl. L. Hensley of Boston ins. Capt. Hensley.
8. Friendship Brig	Benj. Harris	Thomas Adams of Boston
9. Betsey schoon.	Thos. Barker	Willm. Andrews of Boston
10. Charles Sloop	Sam. <sup>l</sup> Brooks	Benj. Hale of Bedford Bedford, near Boston
11. Peggy Schoon.	J. Forrester	Jeremiah Condy & Company of Charleston. S. C.

America taken by British Cruizers, in which no Proceedings can be  
 admitted to Mr. Bayard the Agent for Claims and Appeals

Captors	Courts where adjudged	Remarks.
Privateer Sally Wm. Henry Com.	Mountserrat	No Information received whether Vessel or Cargo were condemned or restored. If condemned, Process wanting.
King's Ship Musquito Com.	Jamaica	Not known whether the Cargo was condemned or restored. Process or Protest or other Particulars wanting.
S. Allegator Wm. Appluk Com.	Jamaica	Sentence not known. Process Protest or other particulars wanting.
Ditto	Jamaica	Sentence not known. Process or Protest or other particulars wanting.
Privateer King George Polly & Jane	Jamaica	Sentence unknown. Protest other particulars Process wanting.
Privateer Scorpion Payle	Jamaica	Sentence unknown. Protest other particulars Process wanting.
Privateer ... ...	Antigua	The Captors and the Sentence unknown. Process wanting.
S. Quebec	Grenada	Sentence unknown. Process Protest & other particulars, wanting.
...	Mountserrat	Captors & Sentence unknown. Process Protest & other particulars wanting.
Privateer (Rattlemake)	Dominica	Sentence unknown. Process Protest & other particulars, wanting.
Privateer Curlew Boys Com.	Jamaica	Sentence Process & other particulars wanting.

Vessels	Masters	Owners & their Residences
12. Harriet Brig	Sam. Kennedy	Jeremiah Condy & Company of Charleston
13. Harriet Sloop NB a claim for Demurrage	H. G. Campbell	Jeremiah Condy & Company of Charleston
14. Sally & Betty <sup>Sloop</sup> NB a claim for Demurrage	R. Foster	Jeremiah Condy & Company of Charleston
15. Freedom Sloop	Rob. G. Buchanan	Rob. G. Buchanan, Wm. Shannon & others of Philadelphia
16. Maria Schoon	Rob. Wilson	Wm. Boll & David Peoples of Philadelphia
17. Betsey Sloop	Symon Peter	
18. Swift Schoon	J. Butler	Joseph Butters & Ship Prind of S. Carol. - In. Pos. freemong of St. Eustatius
19. Eagle Schoon	Grey Powers	Charles Churchill of Hartford in Connecticut.
20. Sally Sloop	Rich. Barker	In. L. Tho. Handy of Newport
21. Friendship schooner	Caleb Green	Williams & Lang of Baltimore
22. Margaret Ship	Don. Merick	Paul Bon below of Baltimore
23. Betsey Schoon	J. Willock	Thomas Willock of Norfolk in Virginia -

Captors	Courts where adjudged	Remarks
Flying Fish Gibson	Bahama	Sentence, Proof, & other particulars wanting
Hennietta	Bahama	Sentence Proof & other particulars wanting
Lively	Bahama	Sentence Proof & other particulars wanting
S. Success Francis Roberts	Jamaica	Sentence unknown. Proof and other particulars wanting.
Winter Hawke Howard Com.	Jamaica	Tenor & Date of Sentence unknown. Proof & other particulars wanting.
flower Spittie Fish Danny & d. Four other vessels	Bahama	Tenor & Date of Sentence, <sup>unknown</sup> Proof & Proof of Property wanting.
Privateer Amory Com.	S. Kitts	Tenor & Date of Sentence, <sup>unknown</sup> Proof & proof of Property wanting.
Europa	Jamaica	Tenor & Date of Sentence, <sup>unknown</sup> Proof and other particulars wanting
S. Hound	Jamaica	Ditto. — Ditto
Imperial Eagle and Privateer Flying Fish.	Jamaica	Ditto. — Ditto. —
Penelope and mione & Privateer Flying Fish. —	Jamaica	Ditto. — Ditto —
S. Colloden	S. Kitts	Ditto — Ditto —

Vessels	Masters	Owners & their Residence
24. Jefferson Sch.	Rich. Almand of the City of Virginia -	Harrison Almand. of Suffolk in Virginia
25. Baron de Carondelet }	J. Conckling	Jos. Conckling Junr. of New York
26. Nancy Sloop	J. Hathaway -	Arch <sup>d</sup> . Alexander & J <sup>n</sup> . Stockton of Newcastle in the State of Delaware
27. Five Brothers	J. M. Looney	Louis Fousillat of Philadelphia
28. Flora	J. Arnold	Louis Fousillat of Philadelphia
29. Adventure	N. Phillips	J. J. Bourne, Sam. Wadsworth John Park & Geo. Ingram
30. Friendship Brig	J. Codman	Jos. & M. Lellan Stevens & others and others of Portland in Massachusetts -
31. Hawke Schooner	J. Dunham	Will <sup>m</sup> . & Tho <sup>s</sup> . Jackson of Phil <sup>a</sup> and Morris & Crafts of Charleston
32. Fame Sch.	Nobel Perry	Sath. Talbot & Wm. Richmon Nobel & Jos. Perry of Daigh
33. Stock Brig	J. Holland -	W <sup>m</sup> . Coombes & Ebenezer Wheelwright of Newberry
34. Polly Sloop	W <sup>m</sup> . Malberry	Laye & Patch of Newberry
35. Margaret Brig	Jon Dalton	O'Brien & Pyke of Newberry

Captors	Courts where adjudged.	Remarks
Charlotte Privaker Pa. M. Alpine	Jamaica	Tenor & Date of <sup>actual</sup> Sentence, Proof and other particulars wanting.
S. Hermione	Ditto	Ditto. . . . Ditto. —
John Privaker	Dominica	Ditto. . . . Ditto.
	Bahama	Tenor & Date of Sentence, name of the Captors & Proof wanting.
Charles Little Ann M. Kenney	Jamaica	Tenor & Date of Sentence Proof and other Particulars wanting
Charles Mary John Hall Com.	Dominica	Tenor & Date of Sentence Proof do other particulars wanting
	Dominica	Tenor & Date of Sentence Proof do other particulars wanting —
	Antigua	Tenor & Date of Sentence Proof and other particulars wanting
	Bahama	Tenor & Date of Sentence. Proof and other particulars wanting.
	S. Kitts	Captors names, Tenor & Date of Sentence Proof do other particulars wanting. —
Mary —	Mountserrat	Tenor & Date of Sentence. Proof do other particulars wanting. —
	Dominica	Captors names, Tenor & Date of Sentence Proof do other particulars wanting —

Vessels	Masters	Owners & their Residences
36. Speedwell	Aug <sup>m</sup> Ryan	Barley O.'Brien & Pyke of Newberry port. —
37. Aurora. — Sch. <sup>m</sup> <sup>W<sup>m</sup></sup> Amasa —		W <sup>m</sup> Ephraim & Christopher Amazeen of Portsmouth in New Hampshire.
38. Appollo Sch. S. R. Hempsted		W <sup>m</sup> Stuart & Rich <sup>d</sup> W. Parker of New London Connecticut. NB a Claim for Damages & Demurrage
39. Rising Sun	J. Wilkey	Pannuam & Lombard of Philadelphia
40. Hannah Ship Geo. Bowler —		Edw <sup>d</sup> . Decker of Providence Rhode Island & Regiel Clark of
41. Juno. Brig Geo. Parker		Matthew Lodge & Co of Baltimore Robert Ellis of
42. Dolphin Ship Caleb Cranston		Asa Allen of Baltimore
43. Fair American Brig P. Phelps		W <sup>m</sup> Patterson of Baltimore
44. Dove Sloop Isaac Isaacs.		Rob <sup>t</sup> . Taylor of Baltimore
45. Peggy Sch. Tho <sup>s</sup> O. Bryan		Sam <sup>l</sup> . & Bro Smyth of Ditto NB a Claim for Damages & Demurrage
46 John Brig Tho <sup>s</sup> . Mahool		Sam <sup>l</sup> . & Bro Smyth of Ditto
47 Sydney Ship Pa <sup>l</sup> . Porter		Sam <sup>l</sup> . & Bro Smyth & Bro Hollis of Baltimore.
48. Fanny Sch. D. Lockbell		John Hollins of Ditto

Captors	Courts <sup>(where)</sup> adjudged	Remarks —
	Bermuda	{ Captors names, Tenor & Date of Sentence, Proufs & other particulars wanting. —
Rattlesnake, &c.	Dominica	{ Tenor & Date of Sentence, Proufs and other particulars wanting.
ditto privateer	Bermuda	{ Proufs & other particulars wanting. —
S. Hermione.	Jamaica	{ Tenor & Date of Sentence Proufs & other particulars wanting. —
S. Hound	Jamaica	{ Tenor & Date of Sentence. Proufs & other particulars wanting. —
S. Allegator	Jamaica	{ Tenor and Date of Sentence Proufs & other particulars wanting.
	S. Kitts —	Ditto — Ditto.
	S. Kitts —	Ditto — Ditto
S. Favorite	S. Kitts —	Ditto — Ditto
	Jamaica —	Ditto — Ditto —
		Ditto. — Ditto
	S. Kitts —	Ditto — Ditto
	Mountain	Ditto — Ditto



97  
List of Vessels, on  
Regard to with further  
Information is required.  
Before any effective proceeding  
can be taken against the  
Captains.

Vessels	Markers	Owners & their Residence
49. Betsey & Polly	Bowen	Casnovie & Walker of Baltimore
50. Polly Schoon.	Mahon.	Ditto
51. Polly scht.	Wm Smith	Ditto
52. Fanny Sloop	Caleb Smith	Tho. Kennedy of Baltimore
53. Sewell scht.	Jos Hubbard	Therowgood & Isaac Smith of Baltimore
54. Molly Brig	Wylie	Ditto Ditto
55. Commerce Sloop	Isaiah Mafery	Briton & Mafery of Philadelphia
56. Russell Sloop	John Holbrook	Kannwell & Jarvis of Danbury
57. Sally schoon	Pason Smith	Willm. Foster of Boston
58. Eliza Ship	Tho. Lewis Junr	Sloan & Putnam of Charles town Mass. & Willm Taylor of Baltimore.
59. Betsey schoon	Caleb Eddy	Dames & Levell Macewe & others of Rhode Island.

Captors	Courts where adjudged	Remarks —	
Macraell	Bahamas	Times & Date of sentence Proofs and other particulars wanting	
Island Packet Privateer	Bahamas	Ditto	Ditto
Privateer St. J. Rumbold	Bermuda	Ditto	Ditto
Ann Haverly	Bermuda	Ditto	Ditto
Experiment	Montserrat	Ditto	Ditto
		Ditto	Ditto
	Bermuda	Ditto	Ditto
Blanche	Dominica	Ditto	Ditto
St Kitts	St Kitts	Ditto	Ditto
St Kitts	St Kitts	Ditto	Ditto
St Kitts	St Kitts	Ditto	Ditto
St Kitts	St Kitts	Ditto	Ditto
St Kitts	St Kitts	Ditto	Ditto
St Kitts	St Kitts	Ditto	Ditto
St Kitts	St Kitts	Ditto	Ditto

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The Secretary of State.

London. 14. Sept. 1795.

99

Dear Sir

A few days since I received a letter from a certain Mr. Bete, inclosing an acc<sup>t</sup> of monies due for copies of proceedings at Martinique in a number of American cases of seizure, made out as he says by direction of Mr. Higginson. The acc<sup>t</sup> I enclose as I received it. A copy of the same Mr. Bete incloses to Mr. Jenner the St. Registrar of the Courts of Admiralty & Appeals here, with a request that Mr. J. would "procure him redress by petition to the Court of Appeals" or in such other manner as he might judge most effectual "for a fraud committed by one Higginson who came invested with the <sup>same</sup> character meaning <sup>myself</sup> that of an Agent for the U.S.". He goes on to state in what way Mr. Higginson ordered the copies to be made out under seal - had them transcribed by his secretary,

Others went off without taking the originals, <sup>either</sup> with  
him or making compensation for the same. because  
each case was separately certified & sealed. instead of all  
being under one seal. - That he applied to Genl Prescott  
to cause Mr H. to be arrested. who declined this however  
from a respect to the public character in which Mr  
appeared. That having heard of Mr H's death at  
"Mexico he had" made application on this subject to Mr  
"Bond his Majesty's consul general at Philad.<sup>a</sup> who he  
"informed him that he could get no redress in any  
"way & that his only resource would be to endeavour  
"procure the money from the Representatives of the  
"honorable American Consul, & a hope of that sort in  
"times he <sup>(Mr Bond)</sup> considered in the American Courts as very  
"indeed" - Under a conviction that the papers must be  
had (the properly they ought to be brought forward on  
the part of Admiral Jervis) I have advised him to send  
forward to you the copies made out by Mr Higginson's clerk

That I had no doubt but ~~that~~ you would take care  
that he should be indemnified for his trouble.

I wrote you by the Harmony via N. York. that  
sailed last week mentioning the Recall of the orders of  
Council for detaining & sending in all neutral vessels  
laden with provisions.

We look with much impa-  
tience for an account of the definitive arrangements  
of the United States respecting the treaty. To know on  
what footing the appeals under my care will eventu-  
ally be placed. To receive instructions for my gov.<sup>t</sup>  
in the management of them will afford much pleasure.

I have the honor to be

with sincere respect & esteem.

Dear Sir

Your most obed<sup>t</sup> & able serv<sup>t</sup>

Saml Bayard

Chicago Museum Assoc.  
Rec'd 23. Nov. 1895

Philadelphia.

for the United States -

The Secretary of State -

The letter from Mr. Rogers  
explaining of the large amount  
to be sent, was regularly sent  
forward to Mr. Rogers.

There are some spoken relative  
to it, among those who are  
Bays and of the 8. Nov. 1894  
before his departure.

Thomas Fitzsimmons Esq. London 2 Oct. 1795.

101

Dear Sir

As I have nothing very particular to communicate to the Secretary of State, I shall not write to him by the present conveyance. But I should be glad you would refresh his memory on the subject of instructions for my government. I have long expected them, & am not a little disappointed in finding that Mr Hammond has arrived - that the treaty has been ratified by the President & that I am without directions on some important points relating to the business under my charge. The want of instructions respecting one class of cases which I requested (in my letter to the Secretary of the 7. of April last.) within this week had well nigh occasioned the United States a heavy additional expense. This however by a little exertion & address I have been able to prevent.

The class of cases I refer to, was that in which our

Original examined 1795.

4  
demand is merely for costs & damages. - Where ~~these~~ have  
been refused by the Vice admiralty courts below, when  
they have directed the vessel George to be restored to  
American claimants. - By my letter to the Sec<sup>y</sup> of State  
you will find that it was agreed that no appeals  
should be entered in these cases, but that they should  
rest until I should hear from our Gov<sup>t</sup> respecting  
them, without prejudice however to the American  
citizens. Notwithstanding this agreement, when Mr. [?]  
= lay laid before Sir W. Scott & D<sup>r</sup> Nicholls some cases in  
similar circumstances, they were of opinion that, as  
the order of the Lords, made in July last, the time of  
entering appeals when a claim below had been paid  
would expire on the 1. inst. - ~~that~~ as a measure of  
it would be advisable to take some steps to secure  
right of appeal in case the American Gov<sup>t</sup> should  
not agree to the amicable mode of settlement proposed.

On receiving notice of this opinion I immediately wrote  
Mess<sup>rs</sup> Crockett & Townley a letter of which I  
enclose a copy for your information -

102

I called on Sir W. Scott & Dr. McColl also & had a conference with them on the subject. I mentioned that after the arrangement that had been agreed on, I thought my taking any step towards entering an appeal <sup>might</sup> ~~would~~ be construed as an abandonment of the plan of settlement agreed on - that as this plan was obviously advantageous to the American sufferers there certainly would be no objection to it on our part - that it was the feeling on which Mr. Jay wished that all the cases should be placed. - That beside the impropriety of bringing many of these cases before the Lord of Appeal, when the loss sustained would be found far less than the costs that would accrue in the pursuit of retribution - there would be ~~also~~ increase of delay to the claimant & of expence to the government. <sup>which</sup> they would gladly avoid. My reasons had their effect. the latter opinion was relinquished & the first arrangement confirmed.

I shall always be happy to hear from you & receive any information or hints respecting the business under my charge, that you desire - & opportunities <sup>may</sup> enable you to communicate. I remain Dear Sir -

With much respect &c &c - your very obed<sup>t</sup> Servant *Saml. May*

Jan. 1. Bayard to T. J.  
London Oct. 2. 1795.

To be added

col 5 V Dmaga

Princeton, 2. Oct. 1804.

Sir

You will recollect that about  
eighteen months past, I had the honor of address-  
ing you on the subject of a demand against the  
U. States by Mr. Slade & some other gentlemen of  
London for services rendered. I am now advanced  
as Proctors, on behalf of our Govern. & Citizens.  
The demand was allowed & the sum of £4,000  
was remitted to discharge it. This however  
was not sufficient for the settle. of the several  
demands of the respective Proctors. The amount  
of their united claims was £5,388. 19. 2. so that  
a balance of £1,388. 19. 2. remains due & unpaid.

The former remittance was distributed exactly  
in proportion to the several claims of these

gentlemen, they were authorized by and  
J. W. Lyman, to request a remittance of  
the balance still unpaid, without delay —

In November last I addressed a letter  
Mr. Wagner, for the purpose of ascertaining  
whether the promised remittance had been made.

In his answer dated the 19. Nov. 1806. (a copy  
which I forwarded to Mr. Stodd) Mr. Wagner says  
"Mr. Lyman's letter on the subject (of this date)  
having been only lately received the additional  
remittance has not yet been made but it is  
proposed to make it early" —

Having just received  
letters from London dated 2. Aug. last. at which  
the said proposed remittance had not arrived, he  
now sends me to enquire whether since that time it has  
been made. or if not. whether it will be made  
soon early, or very late.

The gentlemen in whose behalf this

is made one deeply impressed with "a sense of  
of the justice & disinterestedness which the gov. of the U.S.  
have rendered to their representations" I will gratefully  
remember the liberality of our government in the  
settlement of their claims

I have the honor to remain  
with renewed respect & esteem

Sir

Your most obed. servt.

Samuel Bayard

The Hon<sup>ble</sup>  
James Madison Esq.

Lyell

James Madison Esq.

Secretary of State.

Washington

Recd No 7th

Sam: Mayes.

October 3<sup>rd</sup> 1807.



The Hon. Sec.

James Madison Esq.

Sir

London 2 Nov<sup>r</sup> 1795.

104

I had the honor to receive your letter of the 15. Sept<sup>r</sup>. yesterday. I shall take the earliest measures to acquaint Sir W. Pitt of your opinion (I conclude also the opinion of the President) respecting the demand on the part of this government of a power of attorney from each of our citizens whose claim for retribution is under my charge. I hope this step will produce the desired effect. On several occasions in conversation with Sir W. Pitt I have suggested & urged as my opinion that our citizens having forwarded their papers to the Secretary of State with an express authority & request in almost every case that measures might be taken by our government to procure them indemnification. The government having undertaken this task & delegated its authority respecting this business to an individual, the chain of authority was preserved. The Agent of Government fully competent to prosecute & settle every case with which the U. States might charge him

Timothy Pickens Esq.

I hope now to bring the matter to issue in a short time, Under the authority of your late communication, in concert with Mr Deas I shall urge the settlement of those cases where our demand is only for costs & damages. By advertizing to my letter of the 17 April last you will perceive the arrangement proposed in regard to this class. Nothing now can prevent ~~the~~<sup>its</sup> being early settled but a refusal to acknowledge the competency of my authority to this object. - This if made I shall "wish" agreeably to your instructions, & I trust with success.

The act of Mr. Randolph's resignation, reached us some time the beginning of Oct<sup>r</sup>. - The reasons of this step is yet a perfect mystery to us. Previous to ~~the~~<sup>my own</sup> event had he forwarded me general instructions for my government. - I more especially instructions relating to several important matters on which I have particularly requested direction, in the course of my correspondence, the interests of four citizens whose cases I have in charge, would have been much promoted

If the discharge of my duty been rendered more satisfactory. In answer to the official letter I have written of which I believe are not less than 20. I have received but one from Mr R. on the business of my agency. Its date is the 6. April. The objects to which in this letter he points my attention have been duly regarded & the information he wished you well find was communicated, as fully as lay in my power in my letter of the 16 May last. by the Adriatic. Capt. Blay.

In my letter of the 2 Feb<sup>y</sup> to the Sec<sup>y</sup> of State I mentioned the sum of money that would perhaps be eventually necessary for the pay<sup>t</sup> of the costs that would be incurred in prosecuting the claims & appeals under my charge. In his letter of the 6. Apr<sup>t</sup> in reply. Mr Randolph says "I was always aware that money would be necessary for the claims & appeals & accordingly remitted at one time 10,000 \$<sup>ts</sup> & at another time 20,000 \$<sup>ts</sup> to meet this expense. Until I hear from <sup>Mr Rushmore &</sup> Bankers in the I shall not be able to ascertain whether these sums.

" which were paid for bills lie in the hands of the  
former or the latter. However they have been directed  
to that purpose, yet will he not duty, to cause them  
to be so apply? — And again —

" Perhaps I may take the liberty of submitting  
to the President whether it may not be proper to  
order a further remittance of 10,000<sup>Doll</sup> to counteract  
any consequence of the remittances hitherto made  
to Amsterdam, & I shall write by this opportunity  
(the Diana) to Mr Puckney or in his absence to  
his <sup>son</sup> relative to the money heretofore remitted

Whether these remittances have been made or  
not I have never heard. All the money that has  
been appropriated to the discharge of the expenses  
of the appeals is the sum of £1600 made up by Mr  
Jay & Mr Puckney, & the sum of £1373. 13. 3. the  
summer deposited in the hands of Messrs Bird & Jay  
& Bird <sup>by Mr Deans</sup> subject to my drafts. Of this I have drawn  
to the Proctors £2400. as you will find by the  
receipts to Messrs B. J. & B. transmitted I presume  
by Bird <sup>payee</sup> to the Secretary of the Treasury —

All therefore that remains in the hands of Mr. J. B. S. subject to my orders is £573.10.3 —

There are a number of cases in which appearances have been entered on the part of the appellors, that I hope will be brought to a hearing in the course of this winter. The Proctors will be obliged to make large advances in these cases, on our acc't. & will expect reimbursement of their advances, & pay of their own bills, whenever the Lords of appeal shall have given their final decrees. Timely provision will I trust be made for these charges. On this subject I think it my duty to mention that I am individually liable for the costs in every case when I file a claim or institute an appeal. The security given by Mr. J. B. S. extends only to costs due to the Proctors or appellors, where the decision is in their favour. In every case of appeal we shall certainly have to pay considerable costs as it is a rule in the Court of Appeals not to make a party —

pay costs that is brought before the Court with a  
decree in his favour however illegal or unjust that  
decree may be. I hope my apprehensions may  
prove groundless, but unless I am egregiously deceived  
in my judgment of the character & opinions of the  
present Lords of Appeal, we shall not only be obliged  
to pay costs, but to hear the degrees of condemnation  
against our rebels & rages by the Vice Admiralty here  
affirmed in the Court of Appeals in cases where agree-  
ably to the principles of justice & the law of nations  
we ought to recover with exemplary costs & damages.

By the present conveyance I have the honor to  
send you sundry Inhibitions &c. with a list of the same  
in cases where papers have been lately received -  
The box of papers & the 2 bundles forwarded by  
Mr Wm Holden paperer on board the Concord have  
been duly received.

I have the honor to be

with due respect  
Yours obd<sup>t</sup> &c. &c.  
Saml Bayard

Enclosed is a list of those cases where the appearances  
have been noted by the Co. Agents, & which are  
under the direction of Mr. Slade.

Saml. Bayard  
London Nov. 2. 1795.  
recd. Jan. 13. 1796.

The Honble. <sup>money arrangements</sup>

Timothy Pickering Esq.

acting by special direction of the President  
as Secretary of State -

Philadelphia

Sent by Mr. Bayard the 8 Nov. 1794

108

1. Schooner Betsy (Taylor)
2. Schooner Friendship
3. Brig Lady Washington (additional)
4. Schooner Hawk (additional)
5. Brig Clarissa
6. Schooner Polly (Huston)
- ~~7. Schooner Polly (H)~~
7. Brig Three Brothers
8. Schooner Three Friends
9. Sch<sup>r</sup> Polly (Ingersole)
10. Schooner Betsy
11. Schooner Dolphin (Greaves)
12. Schooner Harmony
13. Brig Bayonne (additional)
14. Sch<sup>r</sup> Polly (H. Smith)
15. Sch<sup>r</sup> Polly (Pitman)
16. Brig Recovery
17. Schooner Kay (Kamer)
18. Philips & Crosby's claim  
relative to Brigs Betsy & Betty
19. Schooner Polly

accompanied by a letter  
from Wm. Smith

List British Quotations

Sent by Mr Bayard

Nov 1794

109

List of Spoliation-papers sent to Mr. Bayard by the Molly  
bound to London on the 10<sup>th</sup> of Dec. 1795.

1. Sch's Sally (Grafton)
2. Hoop Mary Ann (Brintnell) addit.
3. Sch's Neptunea (Ropes)

Specimens  
sent to Mr. Hayward

18 Dec. 1795

by the Molly  
Lambton

Book Harmony (Patterson)  
additional

Sent on 19 Jan. 1796 by  
the Ship Endeavour, Capt.  
Miller - Lambton

List of papers sent Mr. Bayard F. W. Unit Milford on the 25<sup>th</sup>  
Jan 1796. 110

Mr. Boker's papers, relative to part of the cargo of the Pomona, Crocket, master  
Copies of the Records of the Vice Admiralty of Tortola in the following cases:

1. Ship Henrietta (Daddy)
2. Part of the cargo of the Sch'r Industry (Rofs)
3. do ————— of the Sch'r Sally (Gilder)
4. Cargo of the Ship Neptune (Woodbury)
5. Sch'r Hercules (Jones)
6. Part of the cargo of the Brig Philip (Rutter)
7. do ————— of the Sch'r Hope (Joseph Seviere)
8. Snow Lukey (Collins)
9. Part of the cargo of the Sch'r Polly (Lunt)
10. Sch'r Dove (Burke)
11. part of the cargo of the Brig. Three Friends (Black)
12. Part of the cargo of the Brig Betsy (Lease)

Specimens  
sent to Mr. Bayard

1. The first cause of the ...  
2. The second cause of the ...  
3. The third cause of the ...

1. The first cause of the ...
2. The second cause of the ...
3. The third cause of the ...
4. The fourth cause of the ...
5. The fifth cause of the ...
6. The sixth cause of the ...
7. The seventh cause of the ...
8. The eighth cause of the ...
9. The ninth cause of the ...
10. The tenth cause of the ...
11. The eleventh cause of the ...
12. The twelfth cause of the ...
13. The thirteenth cause of the ...
14. The fourteenth cause of the ...

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111

List of papers sent Mr. Bayard on the 12<sup>th</sup> of Septem.  
by the Ship Concord Capt Thompson

1. Brig Potomack (Gunn) addit.
2. Brig Mary Ann (Tucker) addit.
3. Brig Prudence (Pratt)
4. Ship Cleopatra (Campbell)
5. Brig Neptune (Daigre) addit.
6. Sch'r Dolphin (Forster)
7. Sch'r Freedom (Pearson)
8. Sch'r Fame (Sanders)
9. Brig Harriet (Bradbury)
10. Brig Mary (Smith) addit.
11. Snow John and Joseph (Huie)
12. Sch'r Ripella (Smith) addit.
13. Brig Sally (Burchmore)
14. Sch'r Lucy (Woodman) addit.



112  
List of Spoliation-papers per the Sloop Rockwell  
or Bristol — 7th July 1795.

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- Ship Commerce (Preble)
- Sloop Edward (Hotchkiss)
- Sloop Harmony (Parker)
- ~~Sloop~~ Sloop Industry  
(Poole)
- Sloop Ranger (Atwood)
- Brig Salomé (Wapson)
- Sloop Aurora (Waters)
- Sloop William (Bunker)
- Sloop Olivia & Mary (addit.)  
(Dorson)
- Sloop Trial (Peniston)



List of papers sent Mr. Bayard by Gibb's vessel on  
the 17<sup>th</sup> October 1795.

1. Copy of process in the case of ship George Washington  
Captain Mason.

2. D<sup>o</sup> in the case of the Brig Murciano, Captain  
any.

3. Inhibition and return in the case of Sch<sup>r</sup> Polley  
Bickford,

4. D<sup>o</sup> and D<sup>o</sup> — — — in the case of Sch<sup>r</sup> Polley  
(H. Smith)

*papers*  
Copies sent to  
Mr. Bayard by Gibbs' order  
17. Oct. 1795

Brig. Hector (Pennell)  
Sent to Mr. Pinckney  
Mr. Deas with letter  
of 22. Oct. 1795 -

by Gibbs' order

List of Spoliation papers sent  
England & Diana. 4 April 1795

- Sch'r New Adventure (Freeman)
- Sloop Mary Ann (Brentnall)
- Sch'r Marie (Wait) additional.
- Brig Trial (Boyle)
- Sloop Sally (Handy owner)
- Brig Lenuka.
- Ship America (Brown)
- Brig Venus (Gardner)
- Sch'r Betty (Kineman) }  
Sch'r Swallow (Foster) }
- Brig Minerva (Lowell)
- Brig William (Frow)
- Sch'r Industry (Coppinger)
- Ship Pigou, Ship Cleopatra, &  
Ship Eliza.
- Sloop Lark (Attwood)
- Ship Neptune (Rollins) addit.
- Sloop Venus (Butler)
- Sloop Three Friends (Strout)  
addit.
- Sloop Betty (Gelston owner)
- Brig Sally (Cochran) & Brig  
Polly.
- Sloop Nelly (additional)  
Whittles
- Ship Rising Sun (Vanukem  
owner)
- Ship Flora (Babson)
- Ship Neptune (Rollins) addit.
- Brig Eliza (Wellman) Brig  
Maria (Burchmore) and Schooner  
Polly (Knight).
- Brig Nancy (Powers)
- Sloop Philadelphia Packet
- Sloop Dove (Haces) addition.
- Sloop Neptune (Staples) addit.
- Sloop Nancy (Ingersoll)
- Sloop Patty (Peter Pond)  
additional
- Brig Friendship (Harris) addition.
- Sch'r Ranger (Harrison)
- Brig Sally (Cochran)
- Brig Lydia (Foster)
- Schooner Bee (Snow)
- Schooner Whim (Orne)  
additional.
- Israel Thordike's letter stating  
all his losses.

38. Barque John (Lindon owner)
39. Brig Betty (Freeman) 114
40. Ship Ospray (Paddock) Ship  
Hope (Paddock)
41. Schooner Betty Freeman
42. Brig Lufanna (Lillibridge)
43. Brig Hannah (Bartlett) addit. Ship  
Neptune (Rollins) addit.
44. Sloop Dove (Haces) additional
45. Brig Friendship (Godman) addit.
46. Brig Two Brothers (Endicot) addit.
47. Schooner Maria (Waitt) addit.
48. Schooner Ranger (Horney owner)
49. Ship Lampson (Barney) addit.
50. Schooner Luan (Hawkes) addit.
51. Schooner Success (Beard) addit.  
Ship Harmony (Robinson) addit.
52. Brig Esquibo Packet. addit.
53. Brig Lorany. addit.
54. Sch'r Phoenix (Harlow) & Sch'r  
Hawk.
55. Brig Polly (Potter) addit.
56. Schooner Chama (Smith) addit.
57. Schooner Maria (Waitt) addit.
58. Brig Martha and Mary (Stans-  
bury) additional
59. Brig Hannah (Post) additional
60. Schooner Commerce (Bouton)  
additional
61. Sloop Commerce (Hassah Haffey)
62. Schooner Whim (Orne) addit.
63. Brig Fanny (Sage)
64. Brig Eliza (Wellman) Brig  
Maria (Burchmore)
65. Sloop Sally (Edgar) additional
66. Sloop Federal (Earle)
67. Schooner Betty (Ingalls) addit.
68. Brig Dispatch (Townsend) addit.
69. Sloop Sally (Colby)
70. Sloop Sally (Osgood)
71. Sch'r Industry (Grover)
72. Sch'r Betty (Barker)
73. Brig Polly (Harrington)
74. Brig Potomack (Chunn)
75. Sloop Fox (Kiedel)
76. Brig Commerce (Reall) addit.
77. Schooner Success (Bennett) ad.
78. Sloop Friendship (Downe)
79. Schooner Leafower (Garrick, West  
falls and Co. owners)
80. Schooner Salem Packet (Very

4

1. The first part of the paper is devoted to a general  
 2. description of the country, and to a statement of the  
 3. principal facts of its history. The second part is  
 4. devoted to a description of the principal cities and  
 5. towns, and to a statement of the principal facts of  
 6. their history. The third part is devoted to a  
 7. description of the principal rivers and lakes, and  
 8. to a statement of the principal facts of their  
 9. history. The fourth part is devoted to a  
 10. description of the principal mountains and hills, and  
 11. to a statement of the principal facts of their  
 12. history. The fifth part is devoted to a  
 13. description of the principal forests, and to a  
 14. statement of the principal facts of their history.

- 115
81. Brig Mary (Godwise)
  82. Sch. Eagle (Gerrish) addit.
  83. Sloop Amelia (Waters)
  84. Brig Sally (Benton)
  85. Schooner Rachel (Lee) Addit.
  86. Schooner Friendship (Worth) addit.
  87. Brigantine Polly (Townsend)
  88. Brig <sup>(Parker)</sup> George. Additional
  89. Ship Charlotte (Mallaby)
  90. Brig Mary (Smith) additional
  91. Brig Polly (Congdon)
  92. Brig Sally (Wilson) addit.
  93. Ship Eliza (Lewis) addit.
  94. Schooner Relief (Cole) addit.
  95. Schooner Rachel (Lee) addit.
  96. Brig Betty (Brown)
  97. Sloop Mermaid (Sabin)
  98. Ship Margaret (Merrick) addit.
  99. Sloop Farmer (Osburn)
  100. Schooner Betty (Hammond)
  101. Schooner Mahala (Wadsworth)
  102. List of Salem vessels.
  103. Sch. Seaflower (Brown)
  104. Zachariah, Cooper and Co's papers, viz:

1. Petition
2. Account of charges for the Schooner Helena's cargo.
3. Do for Brig Essex's cargo.
4. Do for the Brig Nancy's cargo.
5. Do for the Brig Liberty's cargo.
6. Copy of appeal in the case of Brig Phoebe's cargo.
7. Copy of do ——— Schooner Kabby's cargo.
8. Condemnation of the Brig Hope.
9. Copy of the protest of Daniel Baker Master of the Schooner Kolly.
10. Condemnation of the cargo of the Brig Thomas.
11. ——— of the Schooner Iowa Friends
12. Protest of Samuel Thayer Master of the Brig Liberty.
13. Account of the charges on the Brig Phoebe's cargo.
14. Account of charges on Sch. Kabby's cargo
15. ——— on the Brig Thomas' cargo.
16. ——— on the Brig Hope.

Brig Dolphin, Bradbury.

This list  
To be kept by Mr Taylor.

101. ...
102. ...
103. ...
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120. ...

*Spoliations*  
*Sent to London*  
*by the Diana*  
*4 April 1795.*

Appointments by the British Consuls May 9, 1795

1. Sch's Charlotte (Fernald)
2. Sch's Dove (Bark)
3. Sloop Freedom (Burchan) ~~addit.~~
4. Brig Stork (Holland)
5. Sloop Experiment (Frowbridge)
6. Sloop Swallow (Fitch)
7. Sloop Polly of Norwich }
8. Ship Cleopatra
9. Schooner Polly (Andrews)
10. Sloop Polly (Milbenny)
11. Snow Happy Return (Calvert)
12. Brig Dispatch (Townsend)
13. Schooner Jefferson (Allmand)
14. Sch's Neutr (Lovell)
15. Sch's Nancy (Samson)
16. Sch's Eagle (Powers)
17. Sch's La Fayette (Wyatt)
18. Brig Polly (Goodhue)
19. Ship David & George (Fryer)
20. Brig Potomack (Chuan)
21. Sch's Polly (Davis)
22. Brig Thomas (Welsh)
23. Sch's Speedwell (Ryan)
24. Brig James (Morris)
25. Brig Esquibo Packet (Glover)
26. Sloop Diligent (Coryngnam)
27. Sloop Betsy (Spurr)
28. Brigantine Kate (Crocker)
29. Sch's Hawke (Dunham)
30. Sch's Tryall (Baker)
31. Sch's Patty (Taylor)
32. Sloop Polly (Dexter)
33. Sch's Russia (Kingsley)
34. Brig Two Brothers (Prince)
35. Schooner Betsy (Burn)
36. Sloop Nancy (Hill) }
37. J. L'Epine's case
38. Sch's Industry (Grover)
39. Thetis (Jones)
40. Ship London Packet (Smith)
41. Sch's Mary Ann (Reynolds)
42. Ship Pigeon (Lewis)
43. Sloop Hannah (Dexter)
44. Brig Harriet (Smith)
45. Sch's Peggy (O'Brien) Brig John (Thomas Mahool)
46. Sch's Clarissa
47. Sch's Fanny (Campbell)
48. Sch's Polly (Stillman)
49. Brig Dispatch (Topliff)
50. Sloop Swallow (Fitch)

49. Sch's Eagle (Genick) 116
50. Brig Mary Ann (Tucker)
51. Brig Hiram (Stocking)
52. Sch's Eclipse (Cheney)
53. Sch's Lark (Attwood)
54. Brig Commerce (Pope)
55. Capt. Baker's case
56. Brig Eliza (Rider)
57. Brig Two Brothers (Prince)
58. Sch's Beres (Taylor)
59. Sch's Mary Ann (Reynolds)
60. Sloop William (Bunker)
61. Brig Patty (Wilson) Sloop William (Bunker).
62. Sch's Maria (Byers)
63. Sch's New Adventure (Webb)
64. Brig Maria (Burchmore)
65. Sch's Hope (Snow)
66. Sch's Olivia and Mary
67. Topliff's case
68. Sch's Eagle (Brown)
69. Sch's Jewell (Hubbert)
70. Ship Hiram
71. Sch's Industry (Doggatt)
72. Sloop Nancy (Ingersoll)
73. Sch's Edward (Hotchkiss)
74. Brig Hannah (Bartlett)
75. Brig Harriet (Meady)
76. Brig Lorany
77. Sch's Mary Ann (Billings)
78. Sch's Argo (Spurr)
79. Sch's Peggy (Forrester)
80. Sch's Little Cherub
81. Brig Betsy (Farlong)

British  
Speculation sent to  
Mr. Boyard  
9 May 1795

24

A List of N.C. Higginson's Papers d. <sup>d</sup> Mr. J. Bayard 8 Nov. 1794

1. A. A list of vessels seized at St. Pierre, and libelled there <sup>117</sup>
2. B. A list of vessels seized at St. Lucia, and libelled at St. Pierre
3. C. } Three Briefs of Council
4. D. } at Martinique
5. F. Letter from G. W. Jordan to Masters of American vessels - Ob-  
servations on their requiring security to prosecute claims.
6. G. From same to same announcing condemnation of their  
vessels and the Judges reasons therefor.
7. H. Mr Higginson's letter to the Secretary of State dated 23<sup>rd</sup>  
May 1794 - Barbadoes.
8. I. Drafts of a letter from Mr Higginson to Mr. Pinckney - dated  
from Barbadoes.
9. J. Instructions of 8<sup>th</sup> Jan<sup>y</sup> 1794.
10. K. Mr. Higginson's instructions to Mr. Rhea.
11. L. Rough drafts of letters from Martinique 23<sup>rd</sup> June and  
Barbadoes 12 June (quer. to whom)
12. M. Draft of letter dated Barbadoes 17<sup>th</sup> June (quer. to whom)
13. N. Letter from Rob<sup>t</sup> Prescott to Mr. Higginson, dated St. Pierre  
2 July 1794 - advises him to pay for records.
14. O. Original letter from L. Blakely to Mr. Higginson dated St.  
Pierre 1 July. - Admir. Registrars refusal of copies.
15. P. L. Rhea's affidavit. Death of Mr. Higginson before copies of  
Record of Admir. of Dominico are delivered.
16. Q. Affidavit of J. Burlingham and Thomas Griffith (appear-  
ing to be a loose paper)
17. R. Copies of the proceedings in the admir. of Barbadoes  
against 9 American vessels.
18. S. Copies of the proceedings in the admir. of St. Vincents  
against 5 American vessels.
19. T. Mr. Hamilton's instructions to Mr. Higginson

N<sup>o</sup> 15. Mr. Hamilton's authorization of Mr. Higginson to give bonds and instruments of indemnity in his name.

N<sup>o</sup> 16. Preparatory examinations, in the cases of American vessels, seized by the British at Martinique, unauthenticated.

N<sup>o</sup> 17. Libels, filed against those vessels, also unauthenticated.

N<sup>o</sup> 18. Claims, filed by the masters of those vessels, also unauthenticated.

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Private { Dr. Wardrobe's letter and account for attending  
Letter from Chief Justice of St Croix

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138

1. Lch<sup>r</sup> Delight (Sturgis) addit.
2. Briz Sally (Wellman) addit.
3. Briz Lufanna (Lillibridge) addit.

Preserved in  
to

Mr May and by  
the Concord  
15 Feb. 1795

The Honble T. Pickering Esq. London 30 Nov: 1795.

119

Sir.

I had the honor to receive your letter after 9<sup>th</sup> Oct: by Mr. Shakrop. The early attention you mine to the business of the claims must be highly gratifying to the Merchants concerned in the same as it essentially advances their interests -

I am not surpris'd that the decision in the case of the Betsey should excite "disappointment & chagrin". I trust the manner in which it will be taken up & consider'd here will have a tendency to prevent a similar adjudication.

I have taken measures in concert with Mr. Deas to obtain an amicable settlement of that class of cases which relates only to costs & damages. The substance of my communication to him, Mr. Deas has sent forward to Lord Grenville. It has been refer'd to Sir W. Scott who has reported on it, agreeably to the plan before propos'd.

I trust therefore that Lord Grenville's answer will be received in a few days & that we shall be able to enter on the settlement of these cases. I feel happy in reflecting that the cautions I have made in the business promise to terminate in an arrangement by the operation of which the United States will be relieved from the advance of several thousand pounds.

The Court of Appeals met for the first time since the late vacation on Saturday the 21<sup>st</sup> inst. They also sat <sup>on</sup> the day before yesterday. Both of the sittings I attended. No principle of any importance <sup>however</sup> was settled in either of the cases argued on either of these except in that of the Orion, that was heard & determined at the last sitting - This was the case of a ship from Hamburg bound to a French port. Taken in the year 1793 - with a quantity of potash on board. All the cargo except the potash was restored to the neutral claimants, but this as the Captains contents ought to be condemned as contraband, since by a chemical process, the French had discovered the way of extracting

saltpetre from ~~to~~ it which they immediately converted  
into Gun powder. The Lord however refused to  
condemn this cargo from the circumstance of  
the fact not being generally known thro' Europe  
that potash could by any process be used in the fabri-  
cation of Gun powder. But it might be fairly inferred  
from the sentiments expressed by the Court in deliver-  
ing their judgment that in future they would consi-  
der it as contraband whenever found on board a  
neutral vessel destined for an enemy's port -

I have rec'd the 7 processes sent by Mr. Hagen  
in one of the late vessels -

Inclosed is a duplicate of my letter by the  
Hanswits. Capt. Drummond -

I remain with great respect

Dear Sir

Your obed<sup>t</sup>. M<sup>t</sup>. Serv<sup>t</sup>

Saml Bayard

rec. March 4: 96.

The Secretary of State.

London 29. Dec. 1795.

121

Sir.

Since writing you last I had the honor to receive your letter of the 16. Oct. enclosing Genl Watterstons statement relative to the Danish vessels captured by the British in the year 1780. & of the 9 Nov. acknowledging the rec. of mine of the 10. Sept. - As the Columbus (Capt. Stevenson, by whom I now write is destined for Philad. I think it advisable by her to forward some processes I have lately obtained - but ~~as~~ she is bound in the first instance for St. Ubes - I hence will be considerably detained in her voyage. I propose writing you fully by the packet, that will sail for New York next week -

It will be sufficient generally to say at present, that I have had considerable pleasure lately in observing a more favorable

conduct both in the Court of Admiralty in King's  
Court of Appeals as it respects the American com-  
mission for some time previously - In the course  
of this next month, the Judge of the Admiralty has  
authorized us to execute an order for the restoration of  
the vessels & cargoes seized & sold by order of Sir  
Jervis - Thos. G. Grey - at Martinique, <sup>L. Lucia</sup> & Guadeloupe  
- In the Court of Appeals <sup>also</sup> two illegal sentences of  
the Vice Admiralty courts in the W. Indies have  
been annulled & the conduct of the Judges re-  
censured by the <sup>Lord</sup> Commrs. of Appeal -

These Courts adjourned last week, & will not  
again until the holidays are past - which will  
about the middle of Jan<sup>y</sup> -

I have the honor to be  
Sir, your most obed<sup>t</sup> & aff<sup>l</sup> serv<sup>t</sup>

Sam<sup>l</sup> Bayard

P.S. I enclose I send copy of the printed case Volume on each  
 side in one of those Danish cases to which you'd better  
 refer -  
 T. B.

Timothy Pickering Esq.

Secretary of State for the U.S.

Philadelphia

Wm. Thompson }  
Bartholomew }

with 6 children

Jan: 29. 1796.  
recd June 6. 96.

123  
Before the Lords Commissioners of Appeals in Prize Causes.

## The Schooner *Christiana Amelia*,

JEAN PIERRE SERGE, Master.

### An Appeal from the Island of *St. Christopher*.

#### Appendix to the APPELLANT'S CASE.

Deposition of JEAN PIERRE SERGE, Master, on the Standing Interrogatories.

**T**O the First Interrogatory.—That he was born at *Marseilles*; that he has chiefly lived at *Saint Thomas* for these seven last Years of his Life, where he now resides when he is not at Sea; that he has been admitted a Burgher of that Island for about three Months, or thereabouts.

To the Second.—Saith that he was present at the taking and seizing the said Schooner and her Cargo; he had a Merchant's Commission on board from the King of *Denmark*.

To the Third.—Saith that he cannot exactly tell; saith he knoweth not upon what Pretence, or for what she was taken. That the said Schooner was carried into the *Road of Basseterre*, in the said Island of *St. Christopher*; that the said Schooner sailed under the Convoy of a *Danish* Frigate; that she was taken by the said Armed Ship the *Mercury*, but knows not whether she had any Commission, as none was shewn to him.

To the Fourth.—Saith that his Name is *Jean Pierre Serge*, who is Master of the said Schooner, which is called the *Christiana Amelia*, and that Monsieur *Moreau* gave him the Command of the said Schooner. That he took Possession of the said Schooner at *St. Thomas's*, and that the said Monsieur *Moreau* delivered him the Possession thereof. That the said Monsieur resides at *St. Thomas's*; that he does not know where the said Monsieur *Moreau* was born; that he verily believes he is a *Danish* Subject; that he is an unmarried Man.

To the Fifth.—Saith that the said Schooner is about twenty-five Tons Burthen; that the Number of Mariners on board were twelve, besides this Deponent and Monsieur *Dournoux*, who was a Passenger on Board; that five of the said Mariners were *Frenchmen*, four *Italians*, and the rest Natives of *St. Eustatia* and *Curacoa*; that they all came on Board at the said Island of *St. Thomas's*, but that three quitted him at the Island of *Guadaloupe*, and two he put Sick on Shore, and there re-placed them, and that they were *Frenchmen*, and that this Deponent shipped and hired the same.

To the Sixth.—Saith that this Examinant hath no Part, Share, or Interest in the said Schooner, or her Lading on board; that he has known the said Schooner about four Months; that he first saw her at *Tortola*, and doth not know where she was built.

To the Seventh.—Saith the Name of the said Schooner is the *Christiana Amelia*; that she has been called so about four Months to this Examinant's Knowledge, and that he doth not know of any other Name or Names by which she was so called. That he had only a *Danish* Pass put on Board, and that the same was obtained from the Governor of *St. Thomas's*. That he does not know from what Place or Places the said Schooner sailed from during the Voyage before she was taken.

To the Eighth.—Saith that the Lading on Board the said Schooner at the Time of her first setting Sail, in her last Voyage, consisted of Beef, Pork, Wine, and two Bales of Dry Goods, and that at the Time of the Capture thereof, she had on Board Sugar and Coffee; that the said last-mentioned Cargo was put on board at the Island of *Guadaloupe*, on or about the 25th Day of *December* last.

To

To the Ninth Interrogatory.—Saith that the Owner of the said Schooner, is the said Monsieur Moreau, that he does not know of what Nation or Country the said Monsieur Moreau is; that he is a Resident of *St. Thomas's*, and Subject to the King of *Denmark*.

To the Tenth.—Saith that there was a Bill of Sale made to the aforesaid Owner, but he does not know by whom; that the same was made in the Month of *November* last, and that the same is among the Papers delivered by him, this Examinant, to the Captors.

To the Eleventh.—Saith that the Lading now on board the said Schooner, was put on board at *Basseterre*, *Guadaloupe*, and at one Time; that the said Lading consisted of 76 Hogsheads of Sugar, 70 Barrels of Coffee, and 15 Bags of Coffee.

To the Twelfth.—Saith that the Lader of the said Goods at *Guadaloupe*, was one Mr. *Duriant*; that the said Mr. *Duriant* is a *Frenchman*, and carries on his Business at *Guadaloupe*, and that the Owners and Consignees of the said Goods are the *Danish West-India Company*, at *St. Thomas*; that he does not know of what Nation or Country the said *Danish West-India Company* consist of, but that the said Goods laden on board were on the said Company's Account, Risk, and Benefit; that the said Goods were to be delivered at *St. Thomas*; that the said Mr. *Duriant*, at *Guadaloupe*, had no Interest in the said Goods; that he this Examinant, can take upon himself to swear, that at the Time of lading the Cargo, and at this present Time, and also if the Goods should be restored and unladen at the destined Port, the Goods do and will belong to the said Royal *Danish Company*, and to none others, and that any Loss sustained by this Capture will accrue to the said Company.

To the Thirteenth.—Saith that he only signed one Bill of Lading for the Goods now seized on board the said Schooner; that the said Bill of Lading was not false or colourable, and that no other Bills of Lading were signed different in any respect from the aforesaid.

To the Fourteenth.—That there are no Bills of Lading, or other Papers in *Great-Britain*, relating to the said Schooner or Goods, concerning which he is now examined.

To the Fifteenth.—Saith not.

To the Sixteenth.—That there were no Papers on board, save those he delivered to the Captors, and that no Papers were burnt, torn, thrown over-board, destroyed, cancelled, concealed, or attempted to be concealed, by this Examinant, or any Person on board the said Schooner.

To the Seventeenth.—That the said Schooner was taken as Prize and condemned at *Tortola*.

To the Eighteenth.—That he, this Examinant, sustained no further Loss, except about nine Joes in Gold and Silver Money, and some Clothes, which were taken from him by the People belonging to the said Ship *Mercury*, which expressed the said *Mercury*; that he has not received any Indemnity, Satisfaction, or Promise of Satisfaction, for the said Loss.

To the Nineteenth.—That the said Schooner and Goods were not insured.

To the Twentieth.—That had the said Schooner arrived safe at her destined Port, the said Cargo would immediately have become the Property of the Royal *Danish Company*, as it was at the Time of her Capture.

To the Twenty-first.—That the Lading on board the said Schooner is of the Growth and Produce of *Guadaloupe*.

To the Twenty-second.—That the said Cargo was taken on board from the Shore at *Basseterre*, *Guadaloupe*.

To the Twenty-third.—Saith that his Answers to some preceding Interrogatories, are fully as explanatory of this as this Examinant can depose.

To the Twenty-fourth.—Saith not further, than no Papers whatsoever were sent or carried away in any Manner whatsoever, save those which were delivered to the Captors by this Examinant.

To the Twenty-fifth.—That Bulk was not broken during the Voyage in which the said Schooner was taken, but that after the Arrival of the said Schooner in the Port of *Basseterre*, in the said Island of *St. Christopher*, the said Schooner was unladen, as this Examinant believes, by Order of the Agents of the said Ship the *Mercury*, the said Schooner being leaky.

To the Twenty-sixth.—Saith that there were four Passengers on board the said Schooner, when she was seized and taken, and that they were not secreted; that two of them were Brothers, called *Dourneux*, and the third *Labeside*, and the fourth a free Mulatto; that they were all *Frenchmen*, destined for *St. Thomas's*; but does not know upon what Business they went; that they had no Property or Concern in the said Schooner or her Cargo; that there were no Officers, Soldiers, Marines, or Mariners secreted on board, and that none of his *Britannick Majesty's* Subjects were secreted or confined on board the said Schooner at the Time of her Capture.

To the Twenty-seventh.—Saith that all the Papers found on board were true and fair, and none of them false or colourable; and that he knows not of any Matter or Circumstance to affect their Credit; that he obtained the Passport of the said Schooner from the Governor of *St. Thomas's*; that the said Passport was obtained for the said Schooner only, upon his, this Examinant's Oath; that the accustomed Duty or Fee was paid for the same; that the said Passport has not been renewed; that no Person on board the said Schooner had any Letters of safe Conduct or Let-pass.

To the Twenty-eighth Interrogatory.—Saith not.

To the Twenty-ninth.—Saith that the said Schooner was steering West North West, at the Time of her being pursued and taken; that her Course was not altered, but at all Times directed, when the Wind and Weather would permit, to her destined Port, which was in the said Island of *St. Thomas*.

To the Thirtieth.—Saith that the said Schooner was sold to Monsieur *Moreau*, at *Tortola*, in the Month of *November* last, but that he does not know the Amount of the Purchase Money given for her; that he this Examinant knows the same was paid to the Vender, and that the same was fair and equivalent, without any Intention of covering the real Property; and that he this Examinant verily believes, that if the said Schooner should be restored, she would belong to the said Monsieur *Moreau*, and no other Person or Persons whatsoever.

To the Thirty-first.—That the said Schooner had two Guns mounted, and 50 Weight of Gunpowder, and that the same was put on board to answer the Convoy's Signals; that he had no other Arms, Ammunition, or warlike Stores on board, and that none was thrown over-board to prevent Suspicion.

To the Thirty-second.—Saith that he hath fully answered to every Interrogatory, and knoweth nothing more than what he hath already related, concerning the said Vessel or her Cargo.

## The C L A I M.

The Claim of *Ernst Frederick Walterstorff*, Esq; on Behalf of *Moreau de Cettille*, the true, lawful Owner, and sole Proprietor of the said Schooner, her Tackle, Apparel, and Furniture, Merchant and Burgher of the Island of *St. Thomas*, and a Subject of his Majesty the King of *Denmark*, and on Behalf of the *Danish Royal West-India Trading Society* of the same Island of *St. Thomas*, for the Goods, Wares and Merchandizes laden on board the said Schooner, taken by the Private Ship of War the *Mercury*, and brought into the Road of *Basseterre*, for the said Schooner, her Lading, Demurrage, Costs, Damages, and Expences, which have arisen, or shall or may arise, by Reason of the Detention and Capture of the said Schooner and Lading.

THOMAS BRIDGWATER,  
Advocate for Claimant.

### A F F I D A V I T in Support of the said Claim.

On which Day appeared the said *Ernst Frederick Walterstorff*, and made Oath, that he was born in *Denmark*, and is a Subject of his Majesty the King of *Denmark*, and now resides at *Santa Croix*; that the said *Moreau de Cettille* was the true, lawful, and sole Owner and Proprietor of the said Schooner, her Tackle, Apparel, and Furniture; and the said Society were the true, lawful, and sole Owners and Proprietors of the Goods, Wares, and Merchandizes, laden on board the said Schooner when the said Schooner and her Lading were taken and seized on her Voyage from the Island of *Guadeloupe* to the said Island of *St. Thomas*, by the Private Ship of War, the *Mercury*, and brought into the Road of *Basseterre*; and that no other Person or Persons whatsoever, have or hath any Share or Concern in the said Schooner or Cargo, or in either of them, or in any Part thereof; that he verily believes the Claim hereunto annexed to be a just and true Claim; and that the said *Moreau de Cettille*, and the said Society will be able to make due Specification and Proof of their Property in the said Schooner and her Cargo.

Sworn the 15th Day of *February*, 1781,  
before

ERNST FREDERICK WALTERSTORFF.

JOHN HENRY, Regr.

### B O N D to prosecute the Claim.

*Saint Christopher*,  
in Admiralty. }

Our Sovereign Lord the King,  
against

The Schooner *Christiana Amelia*, whereof *Jean Pierre Serge* was late Master, her Tackle, Apparel and Furniture, and the Goods therein taken and seized, by the private armed Ship of War the *Mercury*, whereof *Robert Craggs* was Commander, and carried into the Road of *Basseterre*, in the said Island.

*Ernst Frederick Walterstorff*, the Claimant in the above Cause, on Behalf of the Owners of the said Schooner and her Cargo, and *William Jaffray*, of the said Island, Merchant, do hereby promise to pay all such Costs, as shall be adjudged to be paid by this honourable Court, in Case the said *Ernst Frederick Walterstorff* shall not make good the Claim which he has made to the said Schooner and her Cargo, on Behalf of the Owners aforesaid.

Taken and acknowledged before me,  
this 15th Day of *February*, 1781. }

ERNST FREDERICK WALTERSTORFF.  
WILLIAM JAFFRAY.

JOHN HENRY, Regr.

## S H I P P A P E R S.

*Certificate from the Governor and Secretary of the Island of St. Thomas, that no Burgher could be got to command the Christiana Amelia, and therefore Jean Pierre Serge, a Frenchman, was appointed Master.*

444 Authorized the 9th Oct. 1780,

P. CLAUCEN.

(L.S.) No. 37, Stamp one Dollar, ——— Schionning, 1780.

In the Year of our Lord, 1780, the 27th of *November*, appeared before me, *Jacob Schwartzkopff*, his Majesty's Counsel, Secretary and Notary Publick, in the Island of *St. Thomas*, in *America*, Burgher and

and Inhabitant of this Place, *Moreau de Cettille*, who declared that it had not been possible for him to find any one Person here with a requisite Burgher's Brief, neither could he find any Inhabitant that hath any understanding of the proper Navy, and therefore was obliged to take the Person *Jean Pierre Serge*, tho' he was a *Frenchman* born, thought proper to gain his Bread in the *Danish* Trade, and accordingly would make a Beginning with this Deponent's Vessel, who for that Purpose trusted the same to him, namely, the Schooner, or Packet Boat, called the *Christiana Amelia*, which for that Purpose was given a true Burgher's Letter; this Deponent required an authentic Testimony, proper and answerable to that Purpose: Declared further the Deponent *Moreau de Cettille*, that the aforesaid want of any other Person was just accordingly as above mentioned; and for that Reason was admitted a Burgher's Letter to the aforesaid *Jean Pierre Serge*; and that he was put in as Captain of the Deponent's aforesaid Pilot Boat.—Given under my Hand, and—Notorial Seal—*St. Thomas*.—Dated as above.

(Seal) SCHWARTZKOPFF, his Majesty's Counsel, Secretary, and Notary Publick.

No. 38 (L. S.) two Dollars.

112.

*Pberming*

SEAPASS. Pass for the Schooner, called *Christiana Amelia*, dated the 21st of *November*, 1780, His Royal Majesty of *Denmark*, and Notary, and Knight of *Danenberg*, General Major, &c. General Governor over all the *Danish American* Islands.

I, PETER CLAUSEN,

Make known that *Francis Moreaux*, Burgher and Inhabitant upon this Island, has requested of me a Sea Pass for his Schooner, called *Christiana Amelia*, *Jean Pierre Serge*, Master, which I could not deny him, but with the Power vested in me, allow him with the said Schooner, for six Months from this Date, to navigate, not only to and from the *Danish Caribbee Islands*, but to all the Islands in the Bounds of *America* wheresoever he is permitted any Trade; therefore I beg kindly to all Civil and Military, High and Low, whosoever meets with the aforesaid Master at Sea, or in any Port or Harbour where he has need to run into, that they will let him with his Schooner, People, and Cargo free and unmolested pass and repass; and in Case of Distress give him any needful Assistance, promising to give the same Benefit to all that come to me with the same Right.—*St. Thomas*.—Given under his Royal Majesty's Seal, and my Hand, the 21st of *November*, 1780.

(L. S.) P. CLAUSEN.

SCHWARTZKOPFF.

## B I L L O F S A L E.

### T O R T O L A.

KNOW ALL MEN BY THESE PRESENTS, That I, *John Gibbs*, of the Island of *Tortola*, Merchant, hath bargained and sold, and by these Presents doth bargain and sell unto *Moreau de Cettille*, of the Island of *St. Thomas*, Merchant, but at present in the Island of *Tortola*, the Prize Schooner *Tucker*, a Prize to the Privateer Brigantine of War *Venus*, *Joseph Trobeau*, Commander; and the Sloop *Seaflower*, *Joseph Willis* Commander, legally condemned in the Court of Vice Admiralty of the said Island, on the 21st Day of *October* last, together with her Tackle, Apparel, and Furniture, and Boat, to him, his Heirs, Executors, Administrators, and Assigns for ever, for the full and just Sum of 1445l. current Gold and Silver Money of said Island, the Receipt of which I do hereby acknowledge, and myself therewith fully satisfied and paid. In witness whereof, I have hereunto set my Hand and Seal, this 16th Day of *November*, 1780.

Signed, sealed and delivered  
in the Presence of

JOHN GIBBS, (L. S.)

NICH. STEELE.

No. 37. (L. S.) 1780.

SCHIONNING.

### M U S T E R R O L L

For the Schooner *Christiana Amelia*, belonging to *Francis Moreaux*, Burgher and Merchant of this Place.

Jean Pierre Serge,	-	-	-	Master.
Brun,	-	-	-	Mate.
Nicholas Steele	-	-	-	
Cazimir	-	-	-	} Sailors.
Jean	-	-	-	
Bastian	-	-	-	
With	-	-	-	
Louis	-	-	-	

So declared, I acknowledge under this Island's Seal, and my Hand, *St. Thomas*, the 21st of *November*, 1780.

SCHWARTZKOPFF,

His Majesty's Counsel, Secretary, and Notary Publick.

SIGNALS

## SIGNALS BY DAY.

To an Anchor or under Sail.

## ARTICLE I.

Blue Flag with Fore-top Sail,  
Close all three Top Sails  
Loose is }

from the Compagnion

Ready for Sailing:  
To get under Way; the bracing  
of the Yard Arms shews on which  
Bout I will fall, whereas the Lee-  
wardmost weigh first, in order not to  
get on board each other.

## ARTICLE II.

Dutch Flag or Jack

from the Mizzen Peak

To Run under my Stern.

## ARTICLE III.

Swedish Jack

Fore-top

To force Sail.

## ARTICLE IV.

Dutch Jack

Main-top

To Close together better.

## ARTICLE V.

White Flag

Fore-top

Ready for tacking about when the  
Flag is hauling down; Helm at Lee.

## ARTICLE VI.

White Flag

Main-top

Ready for wearing round when the  
Flag is hauling down; Helm hard up.

## ARTICLE VII.

Blue Flag

Main-top

Ready for anchoring.

## ARTICLE VIII.

Russian Jack

Fore-top

To Luff-up. and seek the nearest  
Port.

## ARTICLE IX.

Swedish Jack

Main-top

The Convoy to brace up, and when  
the Flag is hauling down, to brace  
up again.

## ARTICLE X.

Blue Flag

Fore-top

Every Man to do his best accord-  
ing to Circumstances, such as to  
force Sail for a Port; or, in Cases  
of Disadvantage, or superior Force,  
either to remain or seek their own  
Safety, just as every one thinks  
advantageous or adviseable.

## ARTICLE XI.

Dutch Jack

Fore-top

The Vessels, as far possible, to hin-  
der and oppose being overhauled  
by any armed Vessel or Craft.

## ARTICLE XII.

French Flag

Compagnion

The Captain or Mate to come in  
my Boat.

## SIGNALS for others to make by DAY.

Danish Flag

Main-top

Wanting to speak with me; if in a  
Hurry one Gun fired.

PAR.

## PARTICULAR SIGNALS.

<i>Danish</i> Pendant	from Main-Topfail Yard	Ship <i>Schimilman</i> .
<i>English</i> Pendant	Fore-top-fail Yard	Brig <i>Eagle</i> .
<i>French</i> Pendant	Cross Jack Yard	Brig <i>Christiana</i> .
<i>Russia</i> Pendant	Mizen Peak	Brig <i>Polly</i> .
<i>Swedish</i> Pendant	Fore-top	Brig <i>St. Thomas</i> .
<i>Dutch</i> Pendant	Mizen-top	Sloop <i>General M'Clausen</i> .
<i>French</i> Pendant	Fore-top Gallant Cross-trees	Sloop <i>Malleville</i> .
<i>Swedish</i> Pendant	Mizen-top	Sloop <i>Elizabeth</i> .
<i>Dutch</i> Pendant	Fore-top-fail Yard	Schooner <i>Ranger</i> .

## SIGNALS by NIGHT.

## ARTICLE I.

One Light in the Main-top Shrouds, and one ditto on the Bowprit. To Weigh and get under Way. N. B. The Leewardmost first.

## ARTICLE II.

Two Lights in the Main Shrouds above each other, and one on the Bowprit. Ready for tacking about, one Gun fired, Helm-a-Lee; in going about put up a Light on the Companion and one on the Bowprit.

## ARTICLE III.

Two Lights in the Mizzen Shrouds, above each other; two ditto in the Fore Shrouds, one ditto on the Bowprit. Ready for wearing round; one Gun fired; Helm hard up; in wearing, put up one Light on the Companion, and one ditto on the Bowprit.

## ARTICLE IV.

One Light on the Main-top Shrouds, one in the Mizzen-top, one on the Bowprit, with two Guns fired. To Lay-to, and drive over Larboard Quarter, with Starboard Tacks; put up one Light in the Main Shroud as high as possible; one ditto on the Companion, and one ditto on the Bowprit.

## ARTICLE V.

One Light in the Fore-top Shrouds, one on the Bowprit. To Lay-to and drive over Starboard Quarter with Larboard Tacks, put up one Light on the Companion, and one on the Bowprit.

## ARTICLE VI.

One Gun fired, and all the Companion Lights. To alter the Course.

## ARTICLE VII.

Five Lights above each other, under the Mizzen Peak. To Close together better.

## ARTICLE VIII.

One Light in the Fore Shroud, one on the Mizzen Peak, and one Gun fired. Perceiving foreign Sails, when the same is repeated with one Light from the Mizzen Peak, which must be hoisted and lowered for every Sail in particular.

## ARTICLE IX.

Three Lights in the Main Shroud above each other, one ditto on the Companion, one ditto on the Bowprit, with one Gun fired. Perceiving Land or Shoals, in turning therefrom one Gun fired, if failing by the Wind, and put up one Light on the Companion, and one ditto on the Bowprit; but if he that perceives the same first is failing before the Wind, then he must fire three Guns if he runs to over Larboard Quarter with Starboard Tacks; but two Guns if he runs to over Starboard Quarter with Larboard Tacks.

## ARTICLE X.

Many unspecified Lights all over where can be placed, with one Gun firing after the other. Distress on Masts, or Tackling, want of Help.

## ARTICLE XI.

Two Lights in the Fore Shrouds above each other, one ditto on the Bowprit, with four Guns fired. To Anchor—Put up one Light on the Companion and one on the Bowprit.

## PRIVATE SIGNALS.

Two Lights in the Main Shrouds above each other,	Ship <i>Schimilman</i> .
Two ditto on the Fore-top Shrouds, above each other,	Brig <i>Aigle</i> .
Two ditto in the Mizzen-top Shrouds above each other,	Brig <i>Christiana</i> .
Four ditto in the same Shrouds above each other,	Brig <i>St. Thomas</i> .
Two ditto under the Mizzen Peak above each other,	Brig <i>Polly</i> .
Three ditto in the Fore-top Shrouds, above each other,	Sloop <i>Clausen</i> .
Three ditto under the Mizzen Peak above each other,	Sloop <i>Malleville</i> .
Three ditto in the Main-top Shrouds above each other,	Sloop <i>Elizabeth</i> .
One ditto on the Ensign Staff,	Schooner <i>Ranger</i> .

Farthermore observe to keep as close to the Frigate on her Lee Quarter as Wind and Weather, as also Circumstances will permit; and in Time of Battle keep on the Side where the Enemy or no foreign Vessel is.

Frigate *Bornholm*, 25th of November, 1780.

(Signed)

SCHIONNING.

February 23, 1781.

IN THE NAME OF GOD, AMEN. I, *John Fabie*, of the Island of *St. Christopher*, Judge of his Majesty's Court of Vice Admiralty of the said Island, and also duly appointed to hear and determine all, and all Manner of Causes and Complaints, as to Ships, and Vessels, and Goods seized and taken as Prize, specially constituted and appointed; having heard, seen, and understood, and fully and maturely discussed the Merits and Circumstances of a certain Business, of taking and seizing of a certain Schooner, called the *Christiana Amelia*, whereof *Jean Pierre Serge* was Master, her Guns, Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandizes laden therein by a private, armed, commissioned Ship of War, called the *Mercury*, whereof *Robert Craggs* was, and is Commander, by Virtue of a Commission, a Letter of Marque, lawfully granted to the said *Robert Craggs*, and brought into the Road of *Basseterre*, in this Island, which was lately, and still is depending before me, on the Part of our said Sovereign Lord the King, against the said Schooner, *Christiana Amelia*, her Guns, Tackle, Apparel, and Furniture; and the Goods, Wares, and Merchandizes taken therein; and against all Persons in general who have, or pretend to have any Right, Title, or Interest in the said Schooner, or Goods. And I, rightly and duly proceeding therein, and our Sovereign Lord the King appearing before Us by his Proctor, who prayed Sentence to be given, and Justice to be done to his Party, and all others in general, having, or pretending to have any Right, Title, or Interest in the said Schooner, or Goods, being heretofore duly and legally cited, intimated, and called; and *Ernst Frederick Walterstorff*, of the Island of *St. Croix*, Esquire, appearing and claiming the said Schooner, her Tackle, Apparel, and Furniture, for and on Behalf of *Morizauds Cettile*, Merchant and Burgher of the Island of *St. Thomas*, and a Subject of his Majesty the King of Denmark, the true, lawful, and sole Owner and Proprietor thereof, and on Behalf of the Royal Danish West India Trading Society of the same Island of *St. Thomas*, for the Goods, Wares, and Merchandizes laden on board the said Schooner; and I having first enquired into and duly considered of the whole Proceedings, had and done before Us in the said Business; and having observed what by Law ought to be observed in this Behalf, have thought fit, and do think fit thus to proceed, to the giving and promulging of my definitive Sentence, or final Decree in the said Business, in Manner and Form following; that is to say, Forasmuch as we have by the Acts enacted, deduced, alledged, pleaded, propounded, and proved in the said Business, found and clearly discovered that the Proctor of our said Lord the King hath sufficiently founded his Intention, deduced in a certain Allegation given and admitted in this Behalf, in the said Business, and now remaining in the Registry of this Court, which said Allegation and other Matters propounded, exhibited, and admitted, we take, and the same ought to be taken, as if here read and inserted for us to pronounce for the Condemnation of the said Schooner, her Guns, Tackle, Apparel, and Furniture, and all the Goods therein, as the Schooner and Goods belonging to the Enemies, or the Schooner and Goods belonging to Adherents of his Majesty's Enemies. Therefore I the said *John Fabie*, the Judge aforesaid first calling upon the Name of *Christ*, and having God alone before our Eyes, and having heard Counsel learned in the Law thereupon, do hereby pronounce, decree, and declare that the said Schooner *Christiana Amelia*, her Guns, Tackle, Apparel, and Furniture; and all the Goods, Wares, and Merchandizes therein taken, were rightly and duly taken by the said private, armed, commissioned Ship of War, the *Mercury*, whereof the said *Robert Craggs* is Commander, and the Officers, Mariners, and others, then being in the Service of the said Ship of War. And that the said Schooner, *Christiana Amelia*, her Guns, Tackle, Apparel, and Furniture, and all the Goods therein taken, did at the Time of the Capture and Seizure thereof, as far as it appears to me, belong to the French King, his Vassals or Subjects, or others inhabiting within his Countries, or Adherents of the Enemies of the King of Great Britain. And that the said Schooner, *Christiana Amelia*, was at the Time of the Capture thereof employed in carrying on an unlawful Trade with the Enemies of his said Majesty, and as such ought to be accounted and reputed liable and subject to Confiscation, and to be adjudged and condemned as and for good and lawful Prize. And I hereby adjudge and condemn the said Schooner, *Christiana Amelia*, her Guns, Tackle, Apparel, and Furniture, and all the Goods therein taken. And I do further pronounce and decree that the Claimant in this Cause do pay double Costs to the Captors; and that the said *Ernst Frederick Walterstorff*, the said Claimant, is liable to the Payment of the same. And I do hereby accordingly adjudge and condemn him to the Payment of the same, by this my definitive Sentence or final Decree, which I read and promulge by these Presents.

By the Court,

JOHN HENRY, Register.

Whereupon Mr. *Bridgewater*, Advocate for the Claimant, prayed and was allowed an Appeal from the foregoing Sentence, to the Lords Commissioners for hearing and determining Appeals.

Before the Lords Commissioners of Appeals  
in Prize Causes.

The Schooner *Christiana Amelia*,

JAMES RICHARDSON, Master.

A P P E N D I X

T O T H E

APPELLANT'S CASE.

2nd June 6. 1796. with J. Bayly's letter  
of Decr 29. 1795.

Before the Lords Commissioners of Appeals in Prize Causes.

## The Schooner *Christiana Amelia*,

JEAN PIERRE SERGE, Master.

Ernst Frederick Walterstorff, of the Island of St. Croix, Esq; a Subject of his Majesty the King of Denmark, Claimant of the said Schooner, as the true and lawful Property of Moreau de Cettille, of the Island of St. Thomas, Merchant; and also Claimant of the Cargo, as the true and lawful Property of the Royal Danish West-India Trading Society, in the Island of St. Thomas, - - - - - } Appellant.

Robert Craggs, Commander of the Private Ship of War, The Mercury, the Captor, - - - } Respondent.

On an Appeal from the Vice Admiralty Court of *St. Christopher's*.

## The Appellant's CASE.

THE said Schooner *Christiana Amelia*, and her whole Cargo, are undoubtedly the Property of Danish Subjects: she sailed under Danish Colours, and was furnished with a Danish Pass from the Governor of the Island of St. Thomas, and was proceeding under the Convoy of a Danish Frigate, from the Island of Guadeloupe, to the Danish Island of St. Thomas, with a Cargo of Sugar and Coffee, when she was in the latter End of December, 1780, or the Beginning of January, 1781, taken by the Private Ship of War, the *Mercury*, Robert Craggs, Commander, who, together with the *Stag*, and *Regulator*, fired two or three Broadfides at the Danish Frigate, and carried to the Island of St. Christopher, and proceeded against as Prize, in the Vice Admiralty Court there.

Only one Witness, (to wit) the aforesaid Jean Pierre Serge, the Master, was examined in Preparatory. He says he was born at Marseilles, that he has resided for seven Years last past at, and is a Burgher of St. Thomas: He fully proves that Monsieur Moreau, of the Island of St. Thomas, and a Danish Subject, is the Owner of the Schooner; that the Danish West India Company are the Owners of the Cargo which was to have been delivered at St. Thomas's for their Account, Risque, and Benefit; and he takes upon himself to swear that at the Time of the Lading, and at this present Time; and also if the said Goods should be restored, and unladen at the destined Port, the Goods did, do, and will belong to the said Royal Danish Company, and none others.

Feb. 15, 1781. The said Ernst Frederick Walterstorff, the present Appellant, who was then at the Island of St. Christopher, on Behalf of said Moreau de Cettille, of the Island of St. Thomas, a Danish Subject, the Owner of the Schooner, and on Behalf of the Danish West India Trading Society, of the said Island of St. Thomas, the Owners of the Cargo; gave a Claim for the said Schooner and her Cargo, and for Demurrage, Cost, Damages, and Expences.

Same Day.

The said Mr. *Walterstorff* was sworn to an Affidavit, verifying his said Claim, wherein he swears that the said *Moreau de Cettille* was the true, lawful, and sole Owner and Proprietor of the said Schooner, and the said Society were the true, lawful and sole Owners and Proprietors of the Cargo; and that no other Person or Persons whatsoever have or hath any Share, Interest or Concern in the said Schooner or Cargo, or in either of them, or in any Part thereof; that he verily believes the Claim to be just and true; and that the said *Moreau de Cettille* and the said Society will be able to make due Specification and Proof of their Property in the said Schooner and her Cargo.

Feb. 24, 1781.

The said Cause came on to be heard before the Judge of the Vice Admiralty Court of *St. Christopher*, who condemned the said Schooner and her Cargo, and decreed the Claimant to pay double Costs to the Captors, and that the said *Ernst Frederick Walterstorff*, the Claimant, is liable to the Payment of the same.

From this Decree Mr. *Walterstorff* appealed to the Most Noble and Right Honourable the Lords Commissioners of Appeals for Prizes; and the *Præfertim* of this Appeal is—"And especially from the said Judge's refusing to restore, and not restoring the said Schooner and her Cargo, with Costs, Damages and Expences; but instead thereof, condemning the same as lawful Prize, and decreeing that the said *Ernst Frederick Walterstorff* do pay Double Costs to the Captors, notwithstanding that it fully and clearly appeared that the said Schooner was the true and lawful Property of the said *Moreau de Cettille*, a Danish Subject, residing in the Island of *St. Thomas*; and that the Goods, Wares and Merchandizes laden on Board her, and therein and therewith taken and seized, were the true and lawful Property of the said Royal Danish West India Trading Society in the said Island of *St. Thomas*, on whose Behalf the same were claimed by the said *Ernst Frederick Walterstorff*."

The usual Inhibition, Citation and Monition have been decreed, issued, served and returned, a Libel of Appeal given in and admitted, and Issue joined; and the Cause now comes on to be heard before their Lordships.

The Claimant and Appellant begs Leave to state for their Lordships Observation, That in a Cause of Appeal, now depending before their Lordships, relative to the Schooner *Catherine*, *Andrè Herrero*, Master, being a Danish Ship, on a like Voyage, taken at the same Time and under the same Circumstances with this Ship, an Affidavit has been made by Mr. *Walterstorff* (and which has been exhibited into, and is now remaining in the Registry of their Lordships Court) of the following Tenor:

### The Schooner CATHERINE, *Andrè Herrero*, Master,

The 12th Day of December 1781.

APPEARED personally *Ernst Frederick Walterstorff* Esq; and made Oath that he was born in the Kingdom of *Denmark*, and ever was and now is a Subject of the King of *Denmark*; and that at the Time of the Capture herein-after mentioned, he the Deponent was Chief Judge and Member of the Council of the Danish Island of *St. Croix*, and that he is duly authorized to make the Claim hereto annexed on Behalf of *Isaac Lopez* of the Island of *St. Thomas*, Merchant, a Danish Subject, the true, lawful and sole Owner and Proprietor of the said Danish Ship or Schooner *Catherine*, whereof the said *Andrè Herrero* was Master, her Tackle, Apparel and Furniture; and also on Behalf of the said *Isaac Lopez*, a Danish Subject, the true, lawful and sole Owner and Proprietor of all and singular the Goods, Wares and Merchandizes laden on Board the said Schooner, and therein and therewith taken and seized as Prize on her Voyage from *Guadaloupe* to the Danish Island of *St. Thomas*, by the private Ship of War the *Stag*, whereof *John Carey* was Commander, in Company with the private Ship of War the *Mercury*, whereof *Robert Craggs* was Commander, and the private Ship of War the *Regulator*, whereof *James Woburn* was Commander, and carried to the Road of *Basseterre* in the Island of *St. Christopher*, where the said Schooner and her Cargo were condemned as lawful Prize to the said Captors: and he further made Oath, That he hath been informed and verily believes that on the 27th Day of December 1780, the said Schooner *Catherine*, in Company with Nine other Danish trading Ships or Vessels, sailed from the Island of *Guadaloupe*, under Danish Colours, bound to the Danish Island of *St. Thomas*, under Convoy of his Danish Majesty's Frigate *Bornholm*, *Schionning* Esq; Commander; and, that on the 29th Day of the same Month, as the said Frigate, with the said Schooner *Catherine* and the aforeaid other Nine Danish Ships under her Convoy, were proceeding for the said Island of *St. Thomas*, they were met with by the said private Ships of War the *Stag*, *Mercury*, and *Regulator*, who, notwithstanding the said Frigate and the said Schooner *Catherine* and all the said nine other Danish Ships had Danish Colours flying, attacked the said Danish Frigate and fired several Shot at her, and obliged her to strike her Colours, and seized and made Prize of the said Danish Schooner *Catherine* and the Nine other Danish Vessels in Company with her, and carried them all to the Road of *Basseterre* in the Island of *St. Christopher*: and he further made Oath

Oath, That he hath been informed, and believes that after the said *Danish* Frigate had been compelled to submit to the superior united Force of the said Privateers, and had actually struck her Colours, they, the said Privateers, some or one of them continued to fire into the said Frigate, and actually fired two or three Broadfides into or at her. And he further made Oath, That immediately after the Capture of the said Schooner *Catherine*, and the aforesaid other nine *Danish* Ships came to the Knowledge of his Excellency General *Clausen*, Commander in Chief of the *Danish* *Charibbee* Islands, then resident at the Island of *St. Croix*, he ordered this Deponent to go to the said Island of *St. Christopher*, and claim the said Schooner *Catherine*, and the aforesaid other nine *Danish* Ships and their Cargoes, on Behalf of the several and respective Owners thereof, who were and are all *Danish* Subjects; and for that Purpose the said General *Clausen* gave this Deponent an open Letter, directed to the Commander in Chief of his *Britannick* Majesty's *Leeward Charibbee Islands*, in which Letter the said General *Clausen* declared that the said Schooner *Catherine*, and the aforesaid nine other *Danish* Ships were taken in a lawful Trade; and at the Time they were so taken were by his *Danish* Majesty's Orders, under the Protection of one of his Frigates; and that all and every one of the said Ships, together with their Cargoes, were the Property of *Danish* Subjects, for which Reason he, the said General *Clausen*, in the Name of his *Danish* Majesty, did claim all the said Ships and their Cargoes, and insist upon their being delivered up immediately, or to that Effect. And he further made Oath, That immediately after the Receipt of the said Order and Letter, this Deponent proceeded for the said Island of *St. Christopher*, where he arrived on or about the 16th Day of *January* 1781, and waited on *John Fabie*, Esq; Judge of the Vice Admiralty Court there, and shewed him the aforesaid open Letter, and the said Letter being in the *Danish* Language, and this Deponent being conversant in the *Danish* and *English* Languages, did verbally interpret to the said *John Fabie* the Contents of the said Letter, and he then told the Deponent, in Answer thereto, that it would be necessary for him, the Deponent, to go to General *Burt*, the Commander in Chief of the *English* *Leeward Charibbee Islands*, who then resided on the Island of *Antigua*, and added that he, the said *John Fabie*, did himself intend to go to *Antigua*, to consult the said General *Burt* on the Subject of the said Letter, or to that Effect. And he further made Oath, That in Conformity to the Directions of General *Clausen*, he, this Deponent, soon after shewed the aforesaid open Letter to the Honourable *Anthony Johnson*, Esq; then Lieutenant Governor, or President of the said Island of *Saint Christopher*, who, in Answer thereto, informed this Deponent that he could not do any thing in the Matter; and that thereupon this Deponent, without Delay, proceeded to the Island of *Antigua*, and delivered General *Clausen*'s aforesaid Letter to General *Burt*, and had a very long Conversation with him relative to the Business this Deponent went about; and the said General *Burt* then told this Deponent, that he had given Orders to the Attorney General to examine the Matter relating to the said *Danish* Ships, and lay all the Information he might receive before him, the said General *Burt*; and the said General *Burt*, at the same Time, assured this Deponent that every Redress should be given to him. And he further made Oath that the said General *Burt* soon afterwards, by Means of the aforesaid *John Fabie*, and other Persons, expressed to this Deponent his Desire of having a further Conversation with him on the Matter this Deponent went about; but Sickness prevented the said General *Burt* from doing any Business afterwards, and he died a few Days after the Deponent's Arrival on the Island of *Antigua*; but before his Death this Deponent did write and send to him a Letter, explanatory of that which he had received from the said General *Clausen* by this Deponent as aforesaid. And he further made Oath, that on the Death of the said General *Burt*, the aforesaid *Anthony Johnson* succeeded to the Command of the *English* *Leeward Charibbee Islands*; and this Deponent not only personally waited on him, but did also write and send a Letter to him, and therein explained the Illegality of the Capture of the said Schooner *Catherine*, and the aforesaid Nine other *Danish* Ships, as being contrary to the Treaties subsisting between *Great Britain* and *Denmark*, and made the necessary Remarks on the daring Conduct of the Captors, who not contented with having first insulted and attacked his *Danish* Majesty's Frigate, but in Spite of the Laws adopted by all civilized Nations, had fired two or three Broadfides into the said Frigate, after the Commander of her compelled by a superior Force had struck her Colours, for which this Deponent insisted that the *English* Commander in Chief of the *English* *Leeward Charibbee Islands* should take proper Notice of this Deponent's said just Complaint, in Order to prevent the Captains of the aforesaid Privateers from molesting or robbing the Ships of any Neutral Power in Alliance with *Great Britain*. And this Deponent in his said Letter to the said Commander in Chief also observed that he this Deponent thought it the Duty of the said Commander in Chief, not only to take away the Commissions from the Commanders of the aforesaid Privateers, who had so notoriously acted contrary to the Laws that ought to be respected, but also to prosecute them according to Law, for their Misbehaviour on that Occasion; a Conduct quite contrary to that observed by the Commanders of his *Britannick* Majesty's Ships of War, who, whenever they have met with a *Danish* Frigate, with Ships under her Convoy, whether going to, or coming from, any *French* Island, have not in the least Manner molested or searched them, but only hailed the Frigate; and on being assured by her Commander that the Vessels under his Convoy were *Danish* Property, have let them proceed quietly on their Voyage, (which this Deponent had been informed, and verily believes to be true). And he further made Oath, that at the Time he sent his aforesaid Letter to the said *Anthony Johnson*, the Commander in Chief, at *St. Christopher*'s, he enclosed a Copy of the Letter he had, as aforesaid, written to General *Burt*; and on or about the eighth Day of *March* last, this Deponent received a Letter from the said *Anthony Johnson*, wherei-

wherein he informed this Deponent that when the Matter came before him he should he hoped do what was proper; and this Deponent doth hereto annex two original Letters, marked No. 1 and No. 2, and says he believes the Letters and Name *Ant. Johnson*, thereto subscribed, to be of the Hand Writing of the said *Anthony Johnson*. And he further made Oath that he never perceived or heard that the said *Anthony Johnson* made any the least Enquiry concerning the Matters complained of by this Deponent; and he further made Oath, that before the Condemnation of the said Schooner *Catherine*, and her Cargo, and the aforesaid Nine *Danish* Ships, and their Cargoes, Complaints were made to this Deponent, by the Masters and Super-Cargoes of the said Ships, that they had been hurried out of their respective Vessels by the Captors, and that some of the Crews of the aforesaid Privateers were selling Part of the Cargoes of the aforesaid *Danish* Ships, together with some of their Sails, and in other respects greatly damaging the said *Danish* Ships and their Cargoes, notwithstanding the same had not then been condemned; to the Truth of which Complaints the said Masters and Super-Cargoes offered to make Oath if there was Occasion; and thereupon the Deponent went to his Counsel, Mr. *Bridgwater*, the Deputy Attorney General of the said Island of *St. Christopher*, and in the Presence of the aforesaid *Anthony Johnson*, and Mr. *Esdaile*, Judge Surrogate of the Vice Admiralty Court there, ordered and desired the said Mr. *Bridgwater*, in this Deponent's Name, and at his Expence, to prosecute for Robbery the Persons who so as aforesaid had unlawfully sold and damaged the aforesaid *Danish* Property; but the said Mr. *Bridgwater* refused so to do; and they the said Mr. *Johnson*, Mr. *Esdaile*, and Mr. *Bridgwater*, unanimously told this Deponent that no Action could be carried on against the said Crews of the said Privateers; put on Board the said captured Vessels, but said that in Case the said *Danish* Vessels should be acquitted, the Captors would be obliged to restore every Thing that had been on Board the said Vessels at the Capture, or to that Effect. And he further made Oath, That he then addressed himself to the said Mr. *Johnson* and Mr. *Esdaile*, and with some Warmth insisted upon their taking such Measures as should be proper to prevent the Captors from disposing of any Part of the said *Danish* Vessels, or their Cargoes, before the Matter in Dispute concerning them was properly decided, by Reason that he, the Deponent, conceived it would make a very material Difference to the Owners of the said *Danish* Ships and their Cargoes, between having their Property in the Hands of the Masters and Super-Cargoes of the said Ships, and having a Right to recover the Value of it against People in a very precarious Line of Life, such as the Crews of Privateers usually are: But the said Mr. *Esdaile* informed this Deponent that what he demanded could not be done in any other Manner than by unloading the said *Danish* Vessels, and putting their Cargoes in Stores or Warehouses, if he the Deponent would be at that Expence; but this Deponent thinking that People in every Country ought to be protected from Robbery, without paying for it, and having no Power to put the said Owners of the said *Danish* Ships and their Cargoes to any such Expence as would be occasioned by landing the said Cargoes, and putting them in Warehouses, declared that he thought it the Duty of the Admiralty Court there to preserve the Property of every Individual; and that he could not take any Steps as to the Landing and Hoping of the said Cargoes, or to that Effect. And he further made Oath, That this Deponent having in the Manner aforesaid proved his having been sent by the Governor of *St. Croix*, and therefore not merely an Agent for the Owners of the aforesaid *Danish* Ships and their Cargoes, but in a public Capacity on Behalf of the *Danish* Nation, yet the Judge of the Vice Admiralty Court of *St. Christopher* did insist upon the Deponent's giving an unlimited Security for the Court Charges, in Case the Deponent as Claimant should be condemned in Costs: And this Deponent having at length produced such Security for seven of the aforesaid ten *Danish* Vessels, he the Deponent, together with his Securities, was obliged to give Bonds, not as Agent for the Owners of the said *Danish* Ships and their Cargoes, but as if he had himself been the very identical Owner thereof, which this Deponent conceives to be a Proof that the Judge of the said Vice Admiralty Court did not look upon this Deponent as representing the Governor of the said Island of *St. Croix*, by whose Orders this Deponent claimed the said *Danish* Ships and their Cargoes. And he further made Oath, That he this Deponent not being able to give the demanded Security for two of the aforesaid *Danish* Ships, (to wit) the Schooner *Jenny* and the Schooner *Catherine*, the Judge of the said Vice Admiralty Court refused to permit and did not permit this Deponent to put in any Claim for either of the said two Vessels or their Cargoes. And he further made Oath, That a few Days before the Condemnation of the said Schooner *Catherine*, and the aforesaid other nine *Danish* Ships and their Cargoes, the said *John Fabie* went to the Island of *St. Eustatia*, and on his Return to the Island of *St. Christopher*, informed the Deponent that he had talked with Admiral Sir *George Brydges Rodney* concerning the Capture of the said *Danish* Ships and their Cargoes: And that the said Admiral *Rodney* had informed him, that he the said Admiral was very sorry the Captors had not also carried in the aforesaid *Danish* Frigate, or to that Effect. And he further made Oath, That after several Delays, the said *John Fabie*, on the 24th Day of *February* last, condemned the said Schooner, *Catherine* and her Cargo, and all the aforesaid other nine *Danish* Vessels and their Cargoes, as lawful Prizes to the Captors, founded on Arguments, or for Reasons which he has not thought proper to insert in the Proceedings in the said Causes. And he further made Oath, That when the Owners of the said Schooners *Jenny* and *Catherine*, two of the aforesaid *Danish* Ships, were called in the said Admiralty Court, he the Deponent declared, that although the said Vessels and their Cargoes were *Danish* Property, yet that the said Masters and Owners of the said two Vessels and their Cargoes had

neither

( 5 )

neither Money, nor could procure Security in the said Island of *St. Christopher*, so as to enable them to make, and lay Claim to the said Vessels and their Cargoes, agreeable to the Usages and Customs of the said Court; to which the said *John Fabie* replied, That the said two *Danish* Vessels were under the same Predicament as the other *Danish* Vessels tried that Day; and proceeded to pronounce, and did accordingly adjudge and pronounce his definitive Sentence of Condemnation of the said Schooners *Jenny* and *Catherine*, as good and lawful Prizes to the Captors. And he further made Oath, That soon after the aforesaid *Danish* Vessels and their Cargoes had been condemned by the said *John Fabie*; he the Deponent applied to the said *John Fabie* to have the Negroes who had been Sailors on board the said *Danish* Ships, delivered up to him the Deponent, he thinking that they could not in any Manner be understood to be included in the aforesaid Sentences of Condemnation, they not being Part of the said Ships, Cargoes, Apparel, or Furniture; and had not been libelled against in the said Vice Admiralty Court, and some of them were Freemen; and to this Demand the said *John Fabie* replied, That those Negroes which had not been libelled against, were not included in the Condemnation; and thereupon this Deponent applied to Mr. *Henry*, Register of the said Court of Vice Admiralty, and desired to know of him whether any of the Negroes on board the said *Danish* Ships had been libelled against; and this Deponent was informed, and convinced by the said Mr. *Henry*, that some of the said Negroes had not been libelled against. And he further made Oath, That notwithstanding some of the said Negroes were free Subjects of the King of *Denmark*, and had been inrolled in their respective Companies of *Gens de Couleur* they were sold, together with those who were Slaves. And he further made Oath, That it was not before repeated Remonstrances had been made by the Deponent, and after he had applied to the Chief Justice of the said Island of *St. Christopher* to grant this Deponent an Habeas Corpus, in Case the Court of Vice Admiralty should refuse to give up the said Free Negroes, that the said *John Fabie* pronounced that the said Free Negroes should be set at Liberty, and at the same Time, contrary to his verbal Promise to this Deponent, that all the Negroes on board all the aforesaid *Danish* Ships, who had not had their Freedom in the *Danish* Islands, should belong to the Captors. And he further made Oath, That when he was informed that the said Court of Vice Admiralty required that this Deponent should give Security to the Amount of *One Thousand Five Hundred Pounds Sterling* for every Vessel he wanted to appeal for, he the Deponent did write a Letter to the said *John Fabie*, and requested that he would modify the said Security in Proportion to the Value of the respective Vessels and their Cargoes, some of them not being worth the Amount of such Security; but this reasonable Motion so made by the Deponent was peremptorily refused by the said *John Fabie*. And he further made Oath, That he the Deponent finding it was out of his Power to procure Security for more than seven of the aforesaid *Danish* Vessels and their Cargoes; he appeared Personally in the Court of Vice Admiralty for the said Island of *St. Christopher*, and there declared that he had not been able to procure Security for the Appeal for the *Danish* Sloop, *Commandant Malleville*, which was the only Reason that the Deponent did not appeal from the Sentence condemning the said Sloop and her Cargo: And he the Deponent, then again in the said Court, declared the said Sloop *Commandant Malleville* and her Cargo to be *Danish* Property. And he further made Oath, That immediately after the condemning the aforesaid *Danish* Ships and their Cargoes, this Deponent perceiving that the Court of Vice Admiralty permitted the Captors to dispose of the said Ships and their Cargoes; on giving a Security for the Appeal, he the Deponent made a Motion in the said Court, seconded and supported by his Counsel, and petitioned the said Court to order the said *Danish* Ships and their Cargoes to be appraised, and Order the Captors to give Security for the Appeal according to the Amount of such Appraisements: But the said *John Fabie* rejected such this Deponent's Petition, and directed that Security should be given by the Captors only, for such a Sum as the said *Danish* Ships and their Cargoes were *bona fide* sold for. And he further made Oath, That he the Deponent thinking every Motion made by him in Court, and every Order and Decision passed therein would be inserted in the Proceedings, and transmitted therewith in Case of an Appeal, did not suppose it necessary to make, and therefore did not make any particular Application to the said Vice Admiralty Court to obtain that Justice. And he further made Oath, That by the Desire of some of the Masters, Mates, and Gentlemen Passengers on board some of the said *Danish* Ships, who had been plundered of their Watches, Money, Silver Buckles, and other Effects, by some of the Crews of the aforesaid Privateers, he the Deponent made Application to the said *John Fabie*, demanding Justice, and that the Things stolen might be restored, and the Persons so plundered made Affidavits of the Things they had been robbed of, and their Value; which Affidavits this Deponent himself delivered to the aforesaid Mr. *Henry*, Register of the said Court of Vice Admiralty; who told the Deponent that the Court had ordered the Things stolen to be restored. And he further made Oath, That notwithstanding repeated Applications made by the Deponent and his Attorneys, Messrs. *Frazer*, *Bannatyne*, and *Jeffray* for Restitution, the Things so stolen were not restored on the eleventh Day of *July* last, a few Days before the Deponent left the *West Indies*; and he hath never heard, nor doth he believe that they, or the Value thereof have been restored at any Time since. And he further made Oath, That when the Masters of the aforesaid *Danish* Ships were turned out of Possession of their Vessels, they were carried by the Captors to a Tavern, in the Town of *Basseterre*, kept by

*Strode*, to which Tavern several *French* Officers, Prisoners

B

of

of War, were also carried; and from the hostile Manner in which the said *Danish* Ships had been taken, the said *Danish* Masters also considered themselves as Prisoners of War, and remained at the said Tavern, until after the said *Danish* Vessels were condemned; and when they heard they were at Liberty to go from the said Island of *St. Christopher*, they intended to proceed immediately to the *Danish* Islands, but were prevented from so doing by the said

*Strode*, the Master of the said Tavern, who insisted upon being first paid the Expences of their Lodging and Boarding at his House. And he further made Oath, That to remove the said Obstacle, procure the Liberty of the said *Danish* Masters, and satisfy the said

*Strode*, he the Deponent gave his own Bond to the said *Strode*, for the Amount of his Charge for the Board and Lodging of the said *Danish* Masters: And this Deponent hath since been obliged to pay the said *Strode* his aforesaid Charge, amounting in the Whole to near Four Hundred Pounds *St. Christopher's* Currency. And he further made Oath, that he having been informed by many People of Veracity, that even the *French* and *Spanish* Prisoners brought to the Island of *St. Christopher* were maintained at the Expence of their Captors, he the Deponent did write a Letter to the aforesaid *John Fabie*, representing to him that the Deponent hoped the same Indulgence would at least be shewn the Masters of the *Danish* Ships, with so much more Reason as it would have been very improper if the Deponent had ordered them to the *Danish* Islands immediately after the aforesaid Capture, when the publick Report, and the Advice of the most eminent Lawyers at *St. Christopher's* and *Antigua*, and every Thing countenanced the Idea that the said *Danish* Ships and their Cargoes would be acquitted and restored; notwithstanding which he the said *John Fabie* did write to this Deponent in Answer, that the different Complaints made by him the Deponent should be properly considered: And he further made Oath, that he conceives this Appeal to have been unnecessarily and unlawfully procrastinated by his not having been able to get a Copy of the Proceedings in the Vice Admiralty Court at *St. Christopher*, out of the Secretary's Office there, for some Months after the Condemnation of the said *Danish* Ships; the Reason of which, the aforesaid Mr. *Henry*, more than Eight Days after the Condemnation of the said *Danish* Ships and their Cargoes, told this Deponent to be, that he had not been able to find a Person who could translate the Ship Papers: And he lastly made Oath, that he doth verily and in his Conscience believe the Claim hereunto annexed to be a true and just Claim, and that he shall be able to make due Proof and Specification thereof; and that no Enemy of the Crown of *Great Britain*, nor the Vassals or Subjects of any such Enemy, nor any other Person residing within any or either of the Countries, Territories or Dominions of any such Enemy, nor their Factors or Agents, nor any Person or Persons whomsoever, save the said *Isaac Lopez*, have, had, or hath any Right, Title or Interest in the said Schooner *Catherine*, or her Cargo, or any Part of either of them.

Same Day the said *Ernst Frederick Walterstorff* was duly sworn to the Truth of this Affidavit. Before me,

ERNST FREDERICK WALTERSTORFF.

AND. COLTEE DUCAREL,  
Surrogate.

( No. I. )

DEAR SIR,

THE other Day I received your Letter, with a Copy of one to the late Governor *Burt*. To which I can only say—soon as the Matter comes properly before me, respecting the *Danish* Vessels which were brought in here, I will, to the best of my Abilities and Judgment, give you all the Satisfaction consistent with my Duty as the Commander of these Islands: at present it lies before the Court of Admiralty.

With respect to your going to *St. Eustatius*, I would advise you as a Friend by no means to think of it, as you are situated—I mean, Sir, with regard to the Trial which is about coming on here; and how long you may be detained at *St. Eustatius*, I can't pretend to say.—A Letter from me to Admiral *Rodney* cannot avail you any thing; for it would be looked on as impertinent in me to prescribe to one in the Command of the Sea Department—you therefore will excuse my Interference in such a Matter.—Do you not think it would be better for you to write a Line to some Friend at *Statia* relating to any Matter of Business you may have thereon?

I am, with Regard,

DEAR SIR,

Your most obedient,

Humble Servant,

ANT. JOHNSON.

9th February, 1781.

The Honourable  
Judge *Walterstorff*.

(No. II.)

## ( No. II. )

S I R,

IN a Conversation which I have had with Mr. *Newton* since I saw you, he seemed to think that you expected I should do something with regard to the Subject of Complaint contained in your Letters to me, owing to an Expression I made Use of to you to the Effect that "when the Matter came before me I should, I hoped, do what was proper;" and I do think it most proper to represent to his Majesty's Principal Secretary of State what and as far as I know of it, that he may determine thereon.

You may remember, Sir, I told you every Time you spoke to me hereon (and even the first time, when the Captain General was alive,) that I conceived no Commander in Chief of his *Britannick* Majesty's *Charibbee* Islands had a Right to interfere with the Judicial Proceedings of any Court whatever. These I can prove to be my Sentiments long before your Arrival here, or the Vessels you came about were captured; and I just mention the Circumstance again to you, that you may be apprized of my Meaning, and that it may not be at all misconstrued.

I have inclosed you a Letter for his Excellency General *Clausen*, which I pray the Favour of you to deliver; and sincerely wishing you a speedy and safe Passage, I remain,

S I R,

Your most obedient,

Humble Servant,

ANT. JOHNSON.

*St. Christoph,*  
*March 8, 1781.*

*Ernst Frederick Walterstorff Esq;*

And the Appellant humbly hopes their Lordships will reverse the Sentence of the Judge below, and Decree the Schooner and her whole Cargo, or the full Value thereof, to be restored to the Claimant for the Use of the several and respective Owners and Proprietors thereof, and condemn the Respondent in Costs and Damages, for (among many others) the following

## R E A S O N S.

- I. For that it fully and clearly appears by the Deposition of the Master, and the Ship Papers, that the Schooner and her whole Cargo were the Property of *Danish* Subjects, sailing under the Protection of the *Danish* Flag, and under Convoy of one of his *Danish* Majesty's Ships of War, and nothing to the contrary is pretended by the Captor.
- II. For that by the Sixteenth Article of the Treaty of Alliance and Commerce between *Great Britain* and *Denmark*, concluded at *Copenhagen* on the 11th Day of *July* 1670, it is declared and agreed "That it shall be lawful for either of the Confederates, and their Subjects or People, to trade with the Enemies of the other and to carry to them or furnish them with all Kinds of Merchandizes (except only prohibited Goods, which are called Contraband,) without any Impediment unless in Ports and Places besieged by the other, which, nevertheless, if they shall do, it shall be free for them either to sell their Goods to the Besiegers, or to go to other Ports or Places not besieged."
- III. For that by the 20th Article of the said Treaty it is further declared and agreed—  
"But lest such Freedom of Navigation or Passage of the one Ally and his Subjects and People, during the War which the other may have by Sea or Land with any other Country, may be to the Prejudice of the other Ally, and that Goods and Merchandizes belonging to the Enemy may be fraudulently concealed under Colour of being in Amity, for preventing Fraud, and taking away all Suspicion, it is thought fit that the Ships, Goods and Men belonging to the other Ally, in their Passages and Voyages, be furnished with Letters of Passport and Certificate," in the Form therein set forth—"When therefore the Merchandize, Goods, Ships, or Men of either of the Allies and their Subjects and People shall meet in open Sea, Straits, Ports, Havens, Lands and Places whatever, the Ships of War, whether publick or private, or the Men, Subjects and People of the other Ally, upon exhibiting only the aforefaid Letters of Safe Conduct and Certificates, nothing more shall be required of them; nor shall Search be made after the Goods, Ships or Men; nor shall they be any other way whatsoever molested or troubled, but shall be suffered with all Freedom to pursue their intended Voyage. But if this solemn and set Form of Passport and Certificate is not exhibited, or there is any other just or urgent Cause of Suspicion, then shall the Ship be searched, which is nevertheless understood to be permitted in this Case only; and if any thing shall be committed contrary to the true Meaning of this Article, against either of the Allies, each of the said Allies shall cause his Subjects and People offending to be severely punished; and full and entire Satisfaction to be forthwith given, and without Delay, to the Party injured and his Subjects and People, for the whole Loss and Expences."

GEORGE HARDINGE.  
WM. SCOTT.

Before the Lords Commissioners of Appeals  
in Prize Causes.

The Schooner *Christiana Amelia*,

JEAN PIERRE SERGE, Master.

Ernst Frederick Walterstorff Esq.  
Claimant of the Ship and her  
whole Cargo, on Behalf of Danish Subjects, the sole Owners } Appellant.

Robert Craigie, Commander of  
the private Ship of War, the } Respondent  
*Mercury*, the Captor.

AN APPEAL from *St. Christopher's*.

THE APPELLANT'S CASE.

To be heard before their Lordships, at the  
Cockpit, Whitehall, on  
the Day of 1782.

26 July 1782

The Lord received the  
Petition of the Ship  
owners and themselves the  
Ship and Cargo to belong  
as claimed and desired  
the same to be restored  
at the Value thereof paid to  
the Claimant.

After the Hearing of the  
Ship & Cargo were afterwards  
paid at the Value of the Ship & Cargo  
and accepted by the Claimant.

**Before the Lords Commissioners of Appeals in Prize Causes.**

CHRISTIANA AMELIA,

JEAN PIERRE SERGE, Master.

Ernst Frederick Walterstorff, of the Island of Saint Croix, Esq; a Subject of his Majesty the King of Denmark, the Claimant of the said Ship, as the true and lawful Property of Moreau de Cettile, of the Island of Saint Thomas, Merchant, and also Claimant of the Cargo, as the true and lawful Property of the Royal Danish West India Trading Society in the said Island of Saint Thomas, - Appellant.

Robert Craggs, *Commander of the Private Ship* } Respondent.  
*of War the Mercury, the Captor,* - }

An Appeal from the Vice-Admiralty Court of the  
Island of *Saint Christopher*.

## The Respondent's C A S E.

**T**HE said Ship *Christiana Amelia* is of the Burthen of about Twenty-five Tons; and on the Voyage before that in which she was taken, she carried a Cargo of Beef, Pork, Wine, and Two Bales of Dry Goods, from *St. Thomas*, which she delivered at *Basseterre*, in the Island of *Guadaloupe*, and there took on board 76 Hogheads of Sugar, 70 Barrels of Coffee, and 15 Bags of Coffee, the Produce of *Guadaloupe*, which she had on board at the Time of her Capture.

At the Time she was taken, she was under the Command of *Jean Pierre Serge*, a *Frenchman*, who was admitted a *Burgher* of the *Danish* Island of *St. Thomas* so late as the 27th of *November* 1780, for the special Purpose of commanding her. Exclusive of the said Master, she had at the Time of her Capture a Crew of Twelve Mariners, Five of whom were *Frenchmen*, Four *Italians*, and the rest were Natives of *Saint Eustatia* and *Curacao*. With this Cargo and Crew, and under Convoy of a *Danish* Frigate of War called *Bornholm*, six Guns, and in Company with the following Nine other Vessels, to wit, Sloop *Nancy*, *John Watlington* Master; Sloop *Elizabeth*, *William Westcott* Master; Brigantine *Eagle*, *John Dowdall* Master; Sloop *Ranger*, *Nicholas Purcelli* Master; Schooner *Catherine*, *Andre Herrero* Master; Brigantine *St. Thomas*, *John Vanneman* Master; Brigantine *Christiana*, *Joseph Hinson* Master; Sloop *Commandant Malleville* Master, and Schooner *Jenny*, *John Elwood* Master, she was proceeding from the said Island of *Guadaloupe* to the *Danish* Island of *St. Thomas*, when she was, on the 29th *December* 1780, met with by the Private Ships of War, the *Stag*, *John Carey* Commander; the *Mercury*, the said *Robert Craggs* Commander, and the *Regulator*, *James Walcott* Commander.

On the Evening preceding the Capture, the *Stag* came in Sight of the aforefaid Armed *Danish* Frigate, and the Ten Vessels under her Convoy; and on the *Stag's* approaching near the said Frigate,

Frigate, to reconnoitre her and the Fleet, the said Frigate fired several Shot at the *Stag*, and obliged her to sheer off, of which the said Captain *Carey* informed the said Captains *Craggs* and *Walcott*; and in consequence thereof, when the said Frigate and Fleet appeared in Sight of the Privateers, on the 29th of *December* 1780, it was agreed by the Captains of the Privateers to bear down upon the Frigate, in order to learn for certain what she was; and on being told that she was a *Danish* Frigate, they did not offer any Insult to the *Danish* Flag, but civilly informed the Commander of the Frigate, they desired to see the Papers of the Fleet under his Convoy, when a Signal was made by the Frigate (by hoisting a *Swedish* Jack at the Foretop), and the Frigate and Fleet forced Sail; and the Commander of the Frigate declared, That he would not allow any of the Privateers to see a Paper of any of his Fleet: And it was then agreed amongst the Commanders of the Privateers, that the *Regulator* should also force Sail, in order to come up with, and obtain a Sight of the Papers of the Fleet, which was done; and the Frigate again hailed by the *Regulator*, whose Captain again requested to see the said Papers, which the Commander of the Frigate still refused, saying, That the Vessels and Cargoes under his Convoy were all *Danish* Property; and that his Orders were, not to let any of the Vessels, or their Papers, be examined. The Captains of the Privateers then informed the Commander of the Frigate, that they must insist on seeing the Papers, but that he might send an Officer to attend the Search; or if he would hoist out his Boat, an Officer should be sent from the Privateers on board the Fleet; and if the Papers shewed the Ships and Cargoes to be *Danish* Property, upon a legal Trade, they were welcome to proceed; and that he should not be detained Half an Hour. After an Hour or more had been taken up in requesting a Sight of the Papers, the *Danish* Commander still refused to permit any Search to be made, or the Papers to be examined, and at the same Time put his Frigate in a threatening State, by pointing his Guns, taking out the Tomkins, and having all Hands to Quarters: That thereupon the *Stag* fired a Gun to bring One of the Fleet to, but not so as to strike her; and the *Mercury* fired a Shot in like Manner for another of the Fleet to bring to; upon which the Frigate immediately attacked the *Mercury*, and fired several Shot at her, some of which passed over her Quarter Deck; and the Fire was returned by the *Stag* and *Mercury* (the *Regulator* being at a Distance, to prevent the Fleet from dispersing), and again returned by the Frigate. During the Fire on both Sides, the Frigate then going before the Wind, the Ensign on board the Frigate was seen to fall, but her Pendant at the Main-top-gallant-mast-head, another Pendant at the Mizzen-peak, another Pendant at the Fore-top-sail-yard, and a Jack at the Fore-top-mast-head, were still flying; and instead of backing her Sails, or lying to, the Frigate set her Foresail, and hauled her Wind, and endeavoured to run from the Privateers: And it not appearing whether the Ensign had been struck or shot away, and the Privateers having still Reason, by the aforesaid Conduct of the Frigate, to suspect that she might be an Enemy, some Shots were fired to bring her to; when the Frigate then, and not till then, backed her Sails, hauled down her other Colours, and lay to; and on her so doing, all Firing instantly ceased; and the *Christiana Amelia*, and the Nine other Trading Vessels, were taken by the Privateers, and carried to the Island of *St. Christopher*; and the *Christiana Amelia* was proceeded against as Prize in the Vice-Admiralty Court there, in the Name of the said *Robert Craggs*, the Commander of the *Mercury*; but the Frigate was suffered to proceed where she pleased, without any further Interruption.

Only One Witness, to wit, the aforesaid *Jean Pierre Serge*, the Master, was examined in Preparatory 13th *January* 1781; he says, He was born at *Marseilles*, and has lived chiefly at *St. Thomas* for the last Seven Years of his Life, where he now resides when he is not at Sea; and that he has been admitted a Burgher of that Island about Three Months: That he had a Merchant's Commission from the King of *Denmark*: That he sailed under Convoy of a *Danish* Frigate: That Monsieur *Moran* gave him the Command of the *Christiana Amelia*: That he took Possession of her at *St. Thomas's*: That Monsieur *Moran* delivered him the Possession thereof: That Monsieur *Moran* resides at *St. Thomas's*, and he believes he is a *Danish* Subject: That he had a *Danish* Pass on board: That she had on board at the Capture Sugar and Coffee, put on board at *Guadaloupe* on or about the 25th *December* 1780: That the Owner of the Schooner is the said *Monf. Moran*: That the Lader of the Goods at *Guadaloupe* was One Mr. *Duriant*, a *Frenchman*, at *Guadaloupe*; and the Owners and Consignees of the Goods are the *Danish West India Company* at *St. Thomas's*: That the said Goods were on the said Company's Account, Risk, and Benefit, and were to be delivered at *St. Thomas's*: That the said Mr. *Duriant* had no Interest in the said Goods: That he can take upon himself to swear, That at the Time of the lading the Cargo, at the present Time, and also if the Goods shall be restored, and unladen at the destined Port, the Goods did, do, and will belong to the said Royal *Danish* Company, and to none others: That any Loss sustained by the Capture will accrue to the Company: That the Lading is of the Growth and Produce of *Guadaloupe*: And that he verily believes, that if the said Schooner should be restored, she would belong to the said *Monf. Moran*, and to no other Person or Persons whatsoever.

The Papers found on board the said Ship, which have been transmitted in the Process, are,

A Burgher's Brief to the said *Jean Pierre Serge*, dated at *St. Thomas's*, the 27th *November* 1780, setting forth, That *Moreaux de Cettile*, a Burgher and Inhabitant of that Island, appeared before the Secretary of the Island, and declared, That he could not find an Inhabitant who understood Navigation, and therefore was obliged to take the said *Jean Pierre Serge*, a *Frenchman*, to command his Vessel, the *Christiana Amelia*: And that a Burgher's Brief was then granted him, and he was put in as Captain of the said Vessel.

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By the Date of the said Burgher's Brief, it is evident that the Master did not swear truly, in saying (as before stated) that he had been admitted a Burgher of *St. Thomas* about Three Months, he having been admitted only One Month and Seventeen Days at the Time of his Examination.

A Pass from the Governor General of the *Danish West India* Islands, for the *Christiana Amelia*, dated at *St. Thomas* the 21st November 1780, to navigate not only to and from the *Danish Caribbean* Islands, but to all the Islands in the Bounds of *America*, wheresoever he is permitted any Trade.

A Bill of Sale for the Schooner *Tucker*, Prize to the Privateers *Venus*, *Joseph Trobeau* Commander, and the *Sea-flower*, *Joseph Willes* Commander, dated the 16th November 1780, whereby *John Gibbs* of *Tortola*, Merchant, sells the said Schooner to *Moreau de Cetille*, of the Island of *St. Thomas*, Merchant, for 1445 l. current Gold and Silver Money of *Tortola*.

Sentence of the Court of Vice-Admiralty of *Tortola*, dated 21st October 1780, condemning the said Schooner *Tucker*, and her Lading, as Prize to the said Privateers *Venus* and *Sea-flower*.

The Muster Roll for the *Christiana Amelia*.

Signals by Day and Night, dated, Frigate *Bornholm*, 25th November 1780, signed *Schionning*, wherein (Art. 10.) is as follows: "Blue Flag—Foretop.—Every One to do their best, according to Circumstances, such as, to force Sail for a Port, or, in Cases of Disadvantage or superior Force, either to remain, or seek their own Safety, just as every One thinks most advantageous or adviseable."—And in Article 11. "The Vessels, as far as possible, to hinder and oppose being overhauled by any Armed Vessel or Craft." And in the last Article as follows: "Furthermore, observe to keep as close to the Frigate, on her Lee Quarter, as Wind and Weather, as also Circumstances, will permit; and in Time of Battle keep on the Side where the Enemy, or no foreign Armed Vessel is."

And a Letter, dated 27th December 1780, signed *L. S. Casamajor*, who resides at *Guadaloupe*, addressed to Mr. *John Vatable*, Merchant at *St. Thomas*, and which is as follows:

"It is Noon, and the *Danes* are under Sail. I have yet Time enough to observe to you, that if you can sell the Sloop *Malleville* for about 400 Joes, to do it, and otherwise to deliver her at that Price to the Partnership, or to send it to me, in the Manner I pointed out to you. I have been assured that the Sloop sails remarkably well, and this must be decided one Way or the other. So I expect to hear something by your first Letter.—I have found amongst the Six Barrels of Wine, One that is a great deal better than the others, and which I have delivered to *Madam Vatable*. Adieu, farewell, and I am ever yours devoted, *L. S. Casamajor*."

The said Sloop *Malleville* is the Sloop *Commandant Malleville*, one of the Nine Vessels under Convoy, as before mentioned.

No Bill of Lading for the Cargo is transmitted, nor does it appear that any such was on board, though the Master says, in Answer to the Thirteenth Interrogatory, that he signed One Bill of Lading for the Goods seized.

Feb. 1781. The said *Ernst Frederick Walterstorff*, the present Appellant, who was then at the Island of *St. Christopher*, on Behalf of *Moreau de Cetille*, as the true, lawful, and sole Owner of the said Ship, Merchant, and Burgher of the Island of *St. Thomas*, and a Subject of the King of *Denmark*, and on Behalf of the Royal *Danish West India* Trading Society of the same Island of *St. Thomas*, gave a Claim for the said Ship and Goods, and for Demurrage, Costs, Damages and Expenses.

May. The said Mr. *Walterstorff* was sworn to an Affidavit in Support of his said Claim, wherein he says, that the said *Moreau de Cetille* was the true, lawful, and sole Owner and Proprietor of the Ship; and that the said Society were the true, lawful, and sole Owners and Proprietors of the Cargo, when she and her Lading were taken; and that no other Person or Persons whatsoever have or hath any Share, Interest, or Concern in the said Ship or her Cargo, or in either of them, or in any Part thereof: That he verily believes the Claim to be just and true: and that the said *Moreau de Cetille* and the said Society will be able to prove it.

1781. The said Cause came on to be heard before the Judge of the Vice-Admiralty Court of *St. Christopher's*, who, by his Sentence or Decree, did pronounce, decree, or declare, that the said Schooner *Christiana Amelia*, her Guns, Tackle, Apparel and Furniture, and all the Goods, Wares, and Merchandizes therein taken, were rightly and duly taken by the said Private Armed Commissioned Ship of War the *Mercury*, whereof the said *Robert Craggs* is Commander, and the Officers, Mariners, and others, then being in the Service of the said Ship of War: That the said Schooner *Christiana Amelia*, her Guns, Tackle, Apparel, and Furniture, and all the Goods therein taken, did, at the Time of the Capture and Seizure thereof, as far as it appeared to him, belong to the *French* King, his Vassals or Subjects, or others inhabiting within his Countries, or Adherents of the Enemies of the King of *Great Britain*. And that the said Schooner *Christiana Amelia* was, at the Time of the Capture thereof, employed in carrying on an unlawful Trade with the Enemies of his said Majesty, and as such ought to be accounted and reputed liable and subject to Condemnation, and to be adjudged and condemned as and for good and lawful Prize. And he thereby

thereby condemned the said Schooner *Christiana Amelia*, her Guns, Tackle, Apparel, and Furniture, and all the Goods therein taken. And decreed the Claimant to pay Double Costs to the Captors; and that the said *Ernst Frederick Walterstorff*, the Claimant, is liable to the Payment of the same.

From this Decree Mr. *Walterstorff* appealed to the Most Noble and Right Honourable the Lord Commissioners of Appeals for Prizes; and the *Præsertim* of his Appeal is, "And especially from a certain pretended Sentence or Decree made and interposed on Friday the 23d Day of February 1781, by the said Judge, whereby he did refuse to restore, and did not restore, the said Schooner and her Cargo, with Costs, Damages, and Expences; but, instead thereof, did condemn the same as lawful Prize, and decree that the said *Ernst Frederick Walterstorff* the Claimant do pay Double Costs to the Captors, notwithstanding that it fully and evidently appeared, that the said Schooner was the true and lawful Property of the said *Moreau de Cettile*, a Danish Subject, residing in the Island of *St. Thomas*; and that the Goods, Wares, and Merchandizes laden on board her, and therein and therewith taken and seized, were the true and lawful Property of the *Royal Danish West India Trading Society*, in the said Island of *St. Thomas*, on whose Behalf the same were claimed by the said *Ernst Frederick Walterstorff*." An Inhibition, Citation, and Monition, have been decreed, issued, served, and returned, a Libel of Appeal given in and admitted, and Issue joined, and the Cause now comes on to be tried before their Lordships. When the Proctor for the Appellant applied for the said Inhibition, Citation, and Monition, he was refused the same by the Register of the High Court of Appeals for Prizes, by reason that the Appeal had not been prosecuted in due Time; but on the 11th January 1782, an Order in Writing was sent from the Council Chamber to the Register, directing the said Inhibition to issue.

The Respondent begs leave to submit to their Lordships Consideration Two Affidavits (inserted in the Appendix) made by him, and by *Samuel M<sup>r</sup> Quoid*, the Lieutenant, and *Joseph Vignaux*, Surgeon of the *Stag*, in a Cause relating to the Schooner *Catherine*, One of the aforesaid Ten Vessels under Convoy, and taken at the same Time, and under the same Circumstances with the *Christiana Amelia*, shewing that there was not any Insult offered to the Danish Flag, but that, on the contrary, the Captain of the Danish Frigate was very much the Aggressor.

And the Respondent humbly hopes that their Lordships will affirm the Sentence of the Judge below, for (among many others) the following

## R E A S O N S :

- I. Because it is fully proved that the Cargo was taken on board at, and was the Produce of *Guadaloupe*, an Island in the *West Indies*, under the Dominion of *France*, by the Law of which, no Ship of any other Country can take in a Cargo there, in the ordinary Course of her Trade.
- II. Because the Master of the Ship, and Five Men of the Crew, which consisted only of Twelve, were *Frenchmen*, and there was not one *Dane* on board.
- III. Because the Master did not rely upon the Neutrality of his Ship, or upon the Treaty subsisting between *Great Britain* and *Denmark*, for Protection, but put himself under the Convoy of a Ship of War, which fired several Shot at the Captors before any Act of Hostility was done on their Part.
- IV. Because the Captain of the said Ship of War refused to suffer the Papers of the said Ship *Christiana Amelia*, which had put herself under his Convoy, to be exhibited to the Captors, in direct Violation of the Terms of the Twentieth Article of the Treaty of Alliance and Commerce between *Great Britain* and *Denmark*, concluded at *Copenhagen*, July 11th, 1670.
- V. Because the said Ship *Christiana Amelia* was not furnished with any Danish Passport or Certificate, declaring that the Cargo of the said Ship belonged to Danish Subjects, or to the Subjects of any neutral Power, as required by the aforesaid Twentieth Article of the Treaty of 1670, between *Great Britain* and *Denmark*.

WM. WYNNE.  
JA. WALLACE.

the Lords Commissioners of Appeals  
in Prize Causes.

CRISTIANA AMELIA,  
AN PIERRE SERGE, Master.

Frederick Walterstorff, Esq;  
Agent of the Ship and her whole  
on Behalf of Danish Subjects,  
to be the Owners thereof, } Appellant.

Traggs, Commander of the Pri-  
vate Ship of War the Mercury, the } Respondent.

Appeal from St. Christopher's.

the Respondent's C A S E.

Read before their Lordships at the Cockpit, White-  
hall the Day of 1782.

Before the Lords Commissioners of Appeals in Prize Causes.

The Schooner CHRISTIANA AMELIA,  
JEAN PIERRE SERGE, Master.

A P P E N D I X

TO THE  
RESPONDENT'S CASE.

*The Examination of the said Jean Pierre Serge, taken in Preparatory by Samuel Vanderpool, Sworn Interpreter.*

Deposition of  
the Master,  
taken the 19th  
January 1781.

1. **T**O the First Interrogatory saith, That he was born at *Marseilles*; that he has chiefly lived at *St. Thomas* for these Seven last Years of his Life, where he now resides when he is not at Sea; that he has been admitted a Burgher of that Island for about Three Months or thereabouts.
2. To the Second Interrogatory saith, He was present at the taking and seizing the said Schooner and her Cargo; that he had a Merchant's Commission on board from the King of *Denmark*.
3. To the Third Interrogatory saith, That he was taken off *Saba*, but at what Distance he cannot exactly tell; saith, he knoweth not upon what Pretence, or for what Reason he was taken; that the said Schooner was carried into the Road of *Basseterre*, in the said Island of *St. Christopher*; that the said Schooner sailed under *Danish* Colours; that no resistance was made by the said Schooner, and that she sailed under the Convoy of a *Danish* Frigate; that she was taken by the said Armed Ship the *Mercury*, but knows not whether she had any Commission, as none was shewn him.
4. To the Fourth Interrogatory saith, That his Name is *Jean Pierre Serge*, who is Master of the said Schooner, which is called the *Christiana Amelia*; that *Monf. Morau* gave him the Command of the said Schooner; that he took Possession of the said Schooner at *St. Thomas's*, and that the said *Monf. Morau* delivered him the Possession thereof; that the said *Monf. Morau* resides at *St. Thomas's*; that he does not know where the said *Monf. Morau* was born; that he verily believes he is a *Danish* Subject; that he is an unmarried Man.
5. To the Fifth Interrogatory saith, That the said Schooner is about 25 Tons Burthen; that the Number of Mariners on board were Twelve, besides this Deponent and *Monf. Dournoux*, who was a Passenger on board; that Five of the said Mariners were *Frenchmen*, Four *Italians*, and the rest were Natives of *St. Eustatius* and *Curacao*; that they all came on board at the said Island of *St. Thomas*, but that Three quitted him at the Island of *Guadaloupe*, and Two he put sick on Shore, and there replaced them; and that they were *Frenchmen*; and that this Deponent shipped and hired the same.
6. To the Sixth Interrogatory saith, That this Examinant hath no Part, Share, or Interest in the said Schooner or her Lading on board; that he has known the said Schooner about Four Months; that he first saw her at *Tortola*, and doth not know where she was built.
7. To the Seventh Interrogatory saith, That the Name of the said Schooner is the *Christiana Amelia*; that she has been called so about Four Months to this Examinant's Knowledge, and that he doth not know of any other Name or Names by which she was so called; that he had only a *Danish* Pass put on board, and that the same was obtained from the Governor of *St. Thomas*; that he doth not know from what Place or Places the said Schooner sailed during the Voyage before she was taken.
8. To the Eighth Interrogatory saith, That the Lading on board the said Schooner, at the Time of her first setting sail in her last Voyage, consisted of Beef, Pork, Wine, and Two Bales of Dry Goods; and that, at the Time of the Capture thereof, she had on board Sugar and Coffee; that the said last mentioned Cargo was put on board at the Island of *Guadaloupe* on or about the Twenty-fifth Day of *December* last.

9. To the Ninth Interrogatory saith, That the Owner of the said Schooner is the said *Monf. Morau*; that he does not know of what Nation or Country the said *Monf. Moran* is; that he is a Resident of *St. Thomas's*, and a Subject of the King of *Denmark*.

10. To the Tenth Interrogatory saith, That there was a Bill of Sale made to the aforesaid Owner, but he does not know by whom; that the same was made in the Month of *November* last, and that the same is among the Papers delivered by him, this Examinant, to the Captors.

11. To the Eleventh Interrogatory saith, That the Lading now on board the said Schooner was put on board at *Basseterre, Guadeloupe*, and at one Time; that the said Lading consisted of 76 Hogsheads of Sugar, 70 Barrels of Coffee, and 15 Bags of Coffee.

12. To the Twelfth Interrogatory saith, That the Lader of the said Goods at *Guadeloupe* was one Mr. *Duriant*; that the said Mr. *Duriant* is a *Frenchman*, and carries on his Business at *Guadeloupe*; and that the Owners and Consignees of the said Goods are the *Danish West India Company* at *St. Thomas*; that he does not know of what Nation or Country the said *Danish West India Company* consists of, but that the said Goods laden on board were on the said Company's Account, Risk, and Benefit; that the said Goods were to be delivered at *St. Thomas's*; that the said Mr. *Duriant*, at *Guadeloupe*, had no Interest in the said Goods; that he, this Examinant, can take upon himself to swear, That, at the Time of the Lading the Cargo, and at this present Time, and also if the said Goods should be restored and unladen at the destined Port, the Goods did, do, and will belong to the said *Royal Danish Company*, and to none others; and that any Loss sustained by this Capture will accrue to the said Company.

13. To the Thirteenth Interrogatory saith, That he only signed one Bill of Lading for the Goods now seized on board the said Schooner; that the said Bill of Lading was not false or colourable, and that no other Bills of Lading were signed different in any respect from the aforesaid.

14. That there are no Bills of Lading, or other Papers, in *Great Britain* relating to the said Schooner or Goods concerning which he is now examined.

15. To the Fifteenth Interrogatory saith not.

16. To the Sixteenth Interrogatory saith, That there were no other Papers on board save those he delivered to the Captors, and that no Papers were burnt, torn, thrown overboard, destroyed, cancelled, concealed, or attempted to be concealed by this Examinant, or any Person on board the said Schooner.

17. To the Seventeenth Interrogatory saith, That the said Schooner was taken as Prize and condemned at *Tortola*.

18. To the Eighteenth Interrogatory saith, That he, this Examinant, sustained no further Loss except about Nine Joes, in Gold and Silver Money, and some Cloaths which were taken from him by the People belonging to the said Ship *Mercury*, which captured the said Schooner; that he has not received any Indemnity, Satisfaction, or Promise of Satisfaction for the said Loss.

19. To the Nineteenth Interrogatory saith, That the said Schooner and Goods were not insured.

20. To the Twentieth Interrogatory saith, That had the said Schooner arrived safe at her destined Port, the said Cargo would have immediately become the Property of the *Royal Danish Company*, as it was at the Time of her Capture.

21. To the Twenty-first Interrogatory saith, That the Lading on board the said Schooner is of the Growth and Produce of *Guadeloupe*.

22. To the Twenty-second Interrogatory saith, That the said Cargo was taken on board from the Shore of *Basseterre, Guadeloupe*.

23. To the Twenty-third Interrogatory saith, That his Answers to some preceding Interrogatories are fully as explanative of this as this Examinant can depose.

24. To the Twenty-fourth Interrogatory saith not further, than that no Papers whatsoever were sent or carried away in any Manner whatsoever, save those which were delivered to the Captors by this Examinant.

25. To the Twenty-fifth Interrogatory saith, That Bulk was not broken during the Voyage in which the said Schooner was taken; but that, after the Arrival of the said Schooner in the Port of *Basseterre*, in the said Island of *St. Christopher*, the said Schooner was unladen, as this Examinant believes, by Order of the Agents of the said Ship the *Mercury*, the said Schooner being leaky.

26. To the Twenty-sixth Interrogatory saith, That there were four Passengers on board the said Schooner when she was seized and taken; that they were not secreted; that Two of them were Brothers, called *Dourneaux*, the Third *Labaffide*, and the Fourth a free *Mullatto*; that they were all *Frenchmen*, destined for *St. Thomas's*, but does not know upon what Business they went; that they had no Property or Concern in the said Schooner, or her Cargo; that there were no Officers, Soldiers, Marines, or Mariners secreted on board; that none of his *Britannic Majesty's* Subjects were secreted or confined on board the said Schooner at the Time of her Capture.

27. To the Twenty-seventh Interrogatory saith, That all the Papers found on board were true and fair, and none of them false or colourable; and that he knows not of any Matter or Circumstance to affect their Credit; that he obtained the Passport of the said Schooner from the Governor of *St. Thomas's*; that the said Passport was obtained for the said Schooner only upon his this Examinant's Oath; that the accustomed Duty or Fee was paid for the same; that the said Passport has not been renewed; that no Person on board the said Schooner had any Letters of safe Conduct or Lettpass.

28. To the Twenty-eighth Interrogatory saith not.

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29. To the Twenty-ninth Interrogatory saith, That the said Schooner was steering West North West at the Time of her being pursued and taken; that her Course was not altered, but at all Times directed, when the Wind and Weather would permit, to her destined Port, which was the said Island of *St. Thomas*.
30. To the Thirtieth Interrogatory saith, That the said Schooner was sold to *Monf. Morau*, at *Tortola*, in the Month of *November* last, but that he does not know the Amount of the Purchase Money given for her; that he this Examinant knows the same was paid to the Vender, and that the same was fair and equivalent, without any Intention of covering the real Property; and that he this Examinant verily believes, that if the said Schooner should be restored, she would belong to the said *Monf. Morau*, and to no other Person or Persons whatsoever.
31. To the Thirty-first Interrogatory saith, That the said Schooner had Two Guns mounted and 50 Weight of Gunpowder; and that the same was put on board to answer the Convoy's Signals; that he had no other Arms, Ammunition, or Warlike Stores on board; and that none was thrown overboard to prevent Suspicion.
32. To the Thirty-second Interrogatory saith, That he hath fully answered to every Interrogatory, and knoweth nothing more than what he has already related concerning the said Vessel or her Cargo.

The Schooner *CHRISTIANA AMELIA*, *Jean Pierre Serge*, Master.

Claim of *Ernst Frederick Walterstorff*, Esq; for Ship and Cargo, dated Feb. 15, 1781.

The Claim of *Ernst Frederick Walterstorff*, Esquire, on Behalf of *Mortau de Cetille*, the true, lawful, and sole Owner and Proprietor of the said Schooner, her Tackle, Apparel, and Furniture, Merchant and Burgher of the Island of *St. Thomas*, and a Subject of his Majesty the King of *Denmark*, and on Behalf of the *Royal Danish West India Trading Society* at the same Island of *St. Thomas*, for the Goods, Wares, and Merchandizes laden on board the said Schooner, taken by the Private Ship of War the *Mercury*, and brought into the Road of *Basseterre*, for the said Schooner and her Lading, Demurrage, Costs, Damages, and Expences, which have arisen, or shall or may arise, by reason of the Detention and Capture of the said Schooner and Lading.

Affidavit annexed to the above Claim, dated as above.

On which Day appeared personally the said *Ernst Frederick Walterstorff*, and made Oath, That he was born in *Denmark*, and is a Subject of his Majesty the King of *Denmark*, and now resides at *Santa Croix*; that the said *Moreau de Cetille* was the true, lawful, and sole Owner and Proprietor of the said Schooner, her Tackle, Apparel, and Furniture; and the said Society were the true, lawful, and sole Owners and Proprietors of the Goods, Wares, and Merchandizes laden on board the said Schooner, when the said Schooner and her Lading were taken and seized on her Voyage from the Island of *Guadalupe* to the Island of *St. Thomas*, by the Private Ship of War the *Mercury*, and brought into the Road of *Basseterre*; and that no other Person or Persons whatsoever have or hath any Share, Interest, or Concern in the said Schooner and Cargo, or in either of them, or in any Part thereof; that he verily believes the Claim hereunto annexed to be a just and true Claim, and that the said *Moreau de Cetille* and the said Society will be able to make due Specification and Proof of their Property in the said Schooner and her Cargo.

444 Authorized the 9th of October 1780.

(L. S.) No. 37. Stamp, One Dollar.  
*Schiønning*, 1780.

P. CLAUCEN.

LENDEMANG.

Burgher's Brief to the Master.

In the Year of our Lord 1780, the 27th of *November*, appeared before me, *Jacob Schwartzkopf*, his Majesty's Council, Secretary, and Notary Public, in the Island of *Saint Thomas*, in *America*, Burgher and Inhabitant of this Place, *Moreaux de Cetille*, who declared that it had not been possible for him to find any one Person here with a requisite Burgher's Brief; neither could he find any Inhabitant that had any Understanding of the proper Navy; and therefore was obliged to take the Person *Jean Pierre Serge*, though he was a *Frenchman* born; thought proper to gain his Bread in the *Danish Trade*, and accordingly would make a Beginning with this Deponent's Vessel, who for that Purpose trusted the same to him, namely, the Schooner or Packet Boat called the *Christiana Amelia*, which for that Purpose was given a true Burgher's Letter; this Deponent required an authentic Testimony, proper and answerable to that Purpose.

Declared further the Deponent *Moreaux*, that the aforesaid Want of any other Person was just accordingly as above-mentioned; and for that Reason was admitted a Burgher's Letter to aforesaid *Jean Pierre Serge*, and that he was put in as Captain of the Deponent's aforesaid Pilot Boat. Given under my Hand, and Notarial Seal, *St. Thomas's*, dated as above.

(L. S.) SCHWARTZKOPFF,  
His Majesty's Council, Secretary, and Notary Public.

112.

No. 38, (L. S.) two Dollars,  
*Pberming*.

PASS for the Schooner called *Christiana Amelia*, dated the 21st of *November*, 1780.

P's for the Ship, dated at *St. Thomas*, 21st Nov. 1780.

His Royal Majesty of *Denmark* and *Norway*, &c. Knight of *Dennenberg*, General Major and General Governor over all the *Danish American* Islands.

L. Peter

I Peter Claucen make known, That Frances Moreaux, Burgher and Inhabitant upon this Island, have requested of me a Sea-Pass for his Schooner called the *Christiana Amelia*, Jean Pierre Serge, Master; which I would not deny him, but, with the Power vested in me, allow him, with the said Schooner, for Six Months from this Date, to navigate not only to and from the Danish Caribbean Islands, but to all the Islands in the Bounds of America, wheresoever he is permitted any Trade; therefore I beg kindly to all Civil and Military, High and Low, whosoever meet with the aforesaid Master at Sea, or in any Port or Harbour where he has need to run into, that they will let him, with his Schooner, People, and Cargo, free and unmolested pass and repass; and in case of Distress give him any needful Assistance, promising to give the same Benefit to all that come to me with the same Right. *St. Thomas*, given under his Royal Majesty's Seal, and my Hand, the Twenty-first of November, One Thousand Seven Hundred and Eighty.

(L. S.) P. CLAUZEN.

SCHWARTZKOPFF.

*Tortola.*

Bill of Sale for  
the Ship, dated  
*Tortola*, 16th  
Nov. 1780.

Know all Men by these Presents, that I, John Gibbs, of the Island of *Tortola*, Merchant, hath bargained and sold, and by these Presents doth bargain and sell unto Moreau de Cettile, of the Island of *St. Thomas*, Merchant, but at present in the Island of *Tortola*, the Prize Schooner *Tucker*, a Prize to the Privateer Brigantine of War *Venus*, Joseph Trobeau Commander, and the Sloop *Sea Flower*, Joseph Willis Commander, legally condemned in the Court of Vice Admiralty of said Island, on the Twenty-first Day of October last, together with her Tackle, Apparel, Furniture, and Boat, to him, his Heirs, Executors, Administrators and Assigns, for ever, for the just and full Sum of Fourteen Hundred and Forty-five Pounds, Current Gold and Silver Money of said Island, the Receipt of which I do hereby acknowledge, and myself therewith fully satisfied and paid; in witness whereof I have hereunto set my Hand Seal this Sixteenth Day of November, One Thousand Seven Hundred and Eighty.

JOHN GIBBS, (L. S.)

Signed, sealed, and delivered in the Presence of

NICHOLAS STEELE.

Published with this annexed Stamp Paper, before the Ordinary Council, Monday the 20th of November, 1780, and registered in the Protocol, Page 204.

Testified on Account of his Counsellors, Council, and Judge Houds, duly appointed,

W. HAAR.

*Tortola*, in the  
Court of Vice  
Admiralty.

At a Court of Vice Admiralty held in and for the said Island of *Tortola*, at the Court House, in the Road Town in the said Island, on Saturday the Twenty-first Day of October, One Thousand Seven Hundred and Eighty, before the Worshipful George Leonard, Junior, Esq. Judge of the same Court, Joseph Trobear, Commander of the private commissioned Brigantine of War *Venus*, and Joseph Willis, Commander of the commissioned Sloop *Sea Flower*, against the Schooner *Tucker*, whereof Thomas Steel was late Master, her Tackle, Apparel, and Furniture, and the Lading therein seized and taken, and brought into the Port of *Tortola*.

Sentence Con-  
demning the  
Ship heretofore  
the Schooner  
*Tucker*, dated  
*Tortola*, 21st  
Oct. 1780.

PROCLAMATION being made, and the Court called and sat, and a Monition (duly signed) being proved by the Marshal of the said Court, the Libel was opened by Harry Webb, Esq. of Council for the Captors: Whereupon, and upon hearing the preparatory Examinations, and the Arguments of the said Council in support of said Libel, Proclamation was made for all Persons having any Right, Title, or Claim to the said Schooner *Tucker*, her Tackle, Furniture, and Apparel, to come and claim the same; and no Person appearing, his Worship, the Judge, proceeded to pronounce Sentence in the following Manner:

In the Name of God, Amen. I, George Leonard, Junior, Esq. Judge of his Majesty's Court of Vice Admiralty for the Virgin Islands, and also duly appointed to hear and determine all and all Manner of Cases and Complaints as to Ships, Vessels and Goods seized and taken as Prize, having heard, seen, and understood, and fully and maturely discussed the Merits and Circumstances of a certain Business of taking or seizing a certain Schooner named the *Tucker*, whereof Thomas Steel was late Master, her Tackle, Apparel, and Furniture, and the Goods taken therein by the Private commissioned Brigantine of War *Venus*, whereof the said Joseph Trobear is the Commander, and the Private commissioned Sloop of War called the *Sea Flower*, whereof Joseph Willis is the Commander, and brought into the Island of *Tortola*, which was lately, and still is, depending before me on the Part and Behalf of the said Joseph Trobear and Joseph Willis, against the said Schooner *Tucker* and her Lading, and against all Persons in general, who have, or pretend to have, any Right, Title, or Interest in the said Schooner or her Lading; and I having duly proceeded therein, do hereby pronounce, decree, and declare, That the said Schooner *Tucker*, and the Goods therein taken and seized by the said Private commissioned Brigantine of War *Venus*, and the said Private commissioned Sloop of War called the *Sea Flower*, by virtue of a Commission granted to the said Joseph Trobear and Joseph Willis, as being the Schooner and Effects of open Enemies, by virtue of, and under two several Acts of Parliament, the one passed in the 16th, the other in the 17th Year of the Reign of his present Majesty, and as such ought to be accounted and reputed, and liable and subject to Condemnation as and for the Schooner and Effects of open Enemies; and I do adjudge the same to be disposed of, viz. Two-thirds of the said Schooner, her Tackle, Apparel, and Furniture and Cargo, to the said Joseph Trobear and his Party; the other Third of the said Schooner, her Tackle, Apparel, and Furniture, and Cargo, to the said Joseph Willis and his Party, or otherwise liable to Confiscation, by this my definitive Sentence or final Decree.

GEO. LEONARD, Junior.

HARRY WEBB, Advocate and Proctor for the Captors.

( 5 )

*Tortola,*

These are to certify that the foregoing Paper Writing is a true Copy of the Original Sentence of Condemnation of the Schooner *Tucker*, now remaining in the Registry of the Vice-Admiralty Court of this Island; and that the same was by me diligently compared, and carefully examined with the Original Sentence of Condemnation.

In Testimony whereof I have hereunto set my Hand, in my Capacity of Register of said Court of Vice-Admiralty, and affixed the Seal of the said Court, this Seventeenth Day of November, One Thousand Seven Hundred and Eighty, and in the Twenty-first Year of his Majesty's Reign.

(L. S.) ROB. HUNTER.

Reg. Court Vice-Admiralty.  
Paid Four Dollars.The Schooner *Christiana Anelia*, Captain *Jean Pierre*. *Christiana Fort*, the 24th November 1780.

BIRCH.

No. 37. (L. S.) 1780.

190, Authorized the 31st July 1780.

*Schiønning.*

P. CLUCEN.

LINDEMEING.

## MUSTER-ROLL

For the Schooner *Christiana Anelia*, belonging to *Francis Mourtaux*, Burgher and Merchant of this Place.

*Jean Pierre Serge,*  
*Bunn,*  
*Nicholas Steele,*  
*Jean Baptiste,*  
*Cazimir,*  
*Jean*  
*Bastian,*  
*Witb,*  
*Louis,*

Master.

Mate.

Sailors.

So declared, before I acknowledge, under this Island's Seal, and my Hand.

*St. Thomas*, the 21st of November 1780.

(L. S.)

SCHWARTZKOPFF, his Majesty's Council,  
Secretary and Notary Public.

## SIGNALS BY DAY.

To Anchor, or under Sail.

## ART. I.

Blue Flag, with Fore-top-  
fail loose,

From the Compagnion, } Ready for Sailing.

All Three Top-fails loose, is

To get under Way; the Bracing of the Yard-arms,  
shows on which Bout I will fall; whereas the  
Leewardmost weigh First, in order not to get on  
board each other.

## ART. II.

Dutch Flag or Jack

From the Mizzen Peak,

To run under my Stern.

## ART. III.

Swedish Jack

Fore-top,

To force Sail.

## ART. IV.

Dutch Jack

Main-top,

To close together better.

## ART. V.

White Flag

Fore-top,

Ready for Tacking about; when the Flag is hauling  
down, Helm at Lee.

## ART. VI.

White Flag

Main-top,

Ready for Wearing round; when the Flag is haul-  
ing down, Helm hard up.

## ART. VII.

Blue Flag

Main-top,

Ready for Anchoring.

## ART. VIII.

Russia Jack

Fore-top,

To luff up, and seek the nearest Port.

## ART. IX.

Swedish Jack

Main-top,

The Convoy to brace up; and, when the Flag is  
hauling down, to brace off again.

B

ART.

## ART. X.

Blue Flag Fore-top,

Every One to do their best according to Circumstances; such as to force Sail for a Port; or, in Cases of Disadvantage or superior Force, either to remain or seek their own Safety, just as every One thinks most advantageous or advisable.

## ART. XI.

Dutch Jack Fore-top,

The Vessels, as far as possible, to hinder and oppose being over-hauled by any Armed Vessel or Craft.

## ART. XII.

French Flag Compagnion,

The Captain or Mate, to come on Board.

## SIGNALS for the others to make by DAY.

Danish Flag Main-top,

Wanting to speak with me; if in a Hurry, One Gun fired.

## PARTICULAR SIGNALS.

Danish Pendant,  
English Pendant,  
French Pendant,  
Russia Pendant,  
Swedish Pendant,  
Dutch Pendant,  
French Pendant,  
Swedish Pendant,  
Dutch Pendant,

From Main-top-sail-yard,  
Fore-top sail-yard,  
Cross Jack-yard,  
Mizen Peak,  
Fore-top,  
Mizen-top,  
Fore-top-gallant Cross-trees,  
Mizen-top,  
Fore-top-sail-yard,

Ship *Schimmelmann*.  
Brig *Agile*.  
Brig *Christiana*.  
Brig *Polly*.  
Brig *St. Thomas*.  
Sloop *General M. Claucen*.  
Sloop *Malleville*.  
Sloop *Elizabeth*.  
Schooner *Ranger*.

## SIGNALS BY NIGHT.

## ART. I.

One Light in the Main-top-shrouds, and One Ditto on the Bowspit,

To weigh, and get under Way. N. B. The Lee-wardmost First.

## ART. II.

Two Lights in the Main-shrouds above each other, and One in the Bowspit,

Ready for tacking about; One Gun fired, Helm at Lee; in going about, put up a Light on the Compagnion, and One on the Bowspit.

## ART. III.

Two Lights in the Mizzen-shrouds above each other, Two Ditto in the Fore-shrouds, and One Ditto in the Bowspit,

Ready for wearing round; One Gun fired, Helm hard up; in wearing, put up One Light on the Compagnion, and One Ditto on the Bowspit.

## ART. IV.

One Light in the Main-top Shrouds, One in the Mizzen-top Shrouds, One on the Bowspit, with Two Guns fired,

To lay to, and drive over Larboard Quarter with Starboard Tacks; put up One Light in the Main-shrouds as high as possible, One Ditto in the Compagnion, and One Ditto on the Bowspit.

## ART. V.

One Light in the Fore-top Shrouds, One on the Bowspit, One on the Mizzen-shrouds, with Three Guns fired,

To lay to, and drive over Starboard Quarter with Larboard Tacks; put up One Light on the Compagnion, and One on the Bowspit.

## ART. VI.

One Gun fired, and all the Compagnion Lights,

To alter the Course.

## ART. VII.

Five Lights above each other under the Mizzen Peak,

To close together better.

## ART. VIII.

One Light in the Fore-shrouds, One on the Mizzen Peak, and One Gun fired,

Perceiving foreign Sails, when the same is repeated with One Light from the Mizzen Peak, which must be hoisted and lowered for every Sail in particular.

## ART. IX.

Three Lights in the Main-shrouds above each other, One Ditto on the Compagnion, One Ditto on the Bowspit, with One Gun fired,

Perceiving Land or Shoals; in turning therefrom One Gun fired; if sailing by the Wind, put up One Light on the Compagnion, and One Ditto on the Bowspit;—but if he that perceives the same First is sailing before the Wind, then he must fire Three Guns, if he runs to over Larboard Quarter with Starboard Tacks; but Two Guns, if he runs to over Starboard Quarter with Larboard Tacks.

( 7 )

## ART. X.

Many unspecified Lights all over where can be placed, } Distress of Masts or Tackling, Want of Help.  
with firing One Gun after the other,

## ART. XI.

Two Lights in the Fore-shrouds above each other, } To anchor; put up One Light on the Companion  
One Ditto on the Bowprit, with Four guns fired, } and One on the Bowprit.

## PRIVATE SIGNALS.

Private Signals

Two Lights in the Main-shrouds above each other,  
Two Ditto in the Fore-top Shrouds above each other,  
Two Ditto, in the Mizzen-top Shrouds above each other,  
Four Ditto in the same Shrouds above each other,  
Two Ditto in the Mizzen Peak above each other,  
Three Ditto in the Fore-top Shrouds above each other,  
Three Ditto under Mizzen Peak above each other,  
Three Ditto in the Main-top Shrouds above each other,  
One Ditto on the Ensign Staff,

Ship *Schimmelma.*  
Brig *Aigle.*  
Brig *Christiana.*  
Brig *St. Thomas.*  
Brig *Polly.*  
Sloop *Clauca.*  
Sloop *Malleville.*  
Sloop *Elizabeth.*  
Schooner *Ranger.*

Farthermore! Observe to keep as close to the Frigate on her Lee-quarter as Wind and Weather, as also Circumstances, will permit; and, in Time of Battle, keep on the Side where the Enemy, or no foreign Armed Vessel, is.

Frigate *Bornholm*, 25th November 1780.

(Signed) SCHIONNING.

Mr. Vatable, at St. Thomas.

The 27th December, 1780.

Letter dated  
Dec. 27, 1780.  
To Mr. Vatable,  
at St. Thomas's.

IT is Noon, and the *Danes* are under Sail. I have yet Time enough to observe to you, that if you can sell the Sloop *Malleville* for about 400 Joes, to do it; and otherwise to deliver her at that Price to the Partnership, or to send it to me in the Manner I pointed out to you. I have been assured that the Sloop sails remarkably well, and this must be decided one Way or the other; so I expect to hear something by your first Letter. I have found amongst the Six Barrels of Wine one that is a great deal better than the others, and which I have delivered to Madam Vatable. Adieu; farewell, and I am ever your's devoted,

To Mr. John Vatable, Merchant,  
at St. Thomas.

L<sup>s</sup>. CASAMAJOR.

Affidavit of  
Capt. Craggs,  
dated April 16,  
1782, in Answer  
to an Affidavit  
of Mr. Walter-  
storff, exhibited  
in the Schooner  
*Catherine*.

16th April, 1782.

APPEARED personally, Robert Craggs, Commander of the private Ship of War the *Mercury*, of Bristol, and referring to the Affidavit made by Ernst Frederick Walterstorff, Esq, annexed to the Claim given in this Cause, wherein it is deposed as follows, to wit, " That on the Twenty-seventh Day of December One Thousand Seven Hundred and Eighty, the said Schooner *Catherine*, in Company with Nine other Danish Trading Ships, or Vessels, sailed from the Island of *Guadaloupe*, under Danish Colours, bound to the Danish Island of *St. Thomas*, under Convoy of his Danish Majesty's Frigate, *Bornholm*, Schionning, Esquire, Commander; and that on the Twenty-ninth Day of the same Month, as the said Frigate, with the said Schooner *Catherine*, and the aforesaid other Nine Danish Ships under her Convoy, were proceeding for the said Island of *Saint Thomas*, they were met with by the said Private Ships of War, the *Stag*, *Mercury*, and *Regulator*, who, notwithstanding the said Frigate, and the said Schooner *Catherine*, and all the said Nine other Danish Ships, had Danish Colours flying, attacked the said Danish Frigate, and fired several Shot at her, and obliged her to strike her Colours, and seized and made Prize of the said Schooner *Catherine*, and the Nine other Danish Vessels in Company with her, and carried them all to the Road of *Basse-terre*, in the Island of *St. Christopher*; and he further made Oath, That he hath been informed, and believes, that after the said Danish Frigate had been compelled to submit to the superior united Force of the said Privateers, and had actually struck her Colours, they, the said Privateers, some or one of them, continued to fire into the said Frigate, and actually fired Two or Three Broadides into or at her." He, the said Robert Craggs, made Oath as follows: That previous to the bringing to any of the said Ten Ships, he, the Deponent, as Commander of the *Mercury* aforesaid, and James Walcott, the Commander of the *Regulator*, were informed by John Carey, Commander of the *Stag*, who is now in the *West-Indies*, that the Fleet then in Sight, meaning the said Ten Ships and the Frigate, was a Fleet come out of *Guadaloupe* under Convoy of the said Frigate, which mounted Thirty-six Guns, and that the said Frigate had, the preceding Evening, on the said *Stag's* approaching near to reconnoitre her, and the said Fleet, after they had come out of *Guadaloupe*, fired several Shot at the *Stag*, and obliged her to sheer off: That upon such Information from John Carey, it was agreed to bear down upon the said armed Frigate, in order to learn for a certainty what she was: That they accordingly bore down, and on being told that the said Frigate was Danish, they informed the Commander of the Frigate, that they desired to see the Papers of the Fleet under his Convoy: That a signal was then made by the Frigate (by hoisting a Swedish Jack on the Foretop), and the Frigate and Fleet forced Sail, the Commander of the Frigate declaring he would not allow any of the Privateers to see a Paper of any of his Fleet: That it was then agreed amongst the Commanders of the aforesaid Privateers, that the *Regulator* should also force Sail, in order to come up with, and obtain a Sight of the Papers of the Fleet: That the same was accordingly done, and the Frigate was again hailed by the *Regulator*, requesting to see the said Papers: That the Commander of the Frigate still refused the same, saying, that the Vessels and Cargoes under his Convoy were all Danish Property, and that his Orders were not to let any of the Vessels or their Papers be examined: That the Deponent, and the Commanders of the other Two Privateers, thereupon informed the Commander of the Frigate, that they must insist on seeing the Papers, but that he might send an Officer to attend the Search; or, if he would hoist out his Boat, an Officer should be sent on Board the Fleet; and if the Papers shewed the Ships and Cargoes to be Danish Property, upon a legal Trade, they were welcome

to proceed, and that he would not be detained Half an Hour: That the Commander of the Frigate, after an Hour or more had been taken up in requesting a Sight of the Papers, still refused to permit any Search to be made, or the Papers to be examined, and at the same Time put the Frigate in a threatening State, by pointing the Guns, taking out the Tomkins, and having all Hands to Quarters: That thereupon the *Stag* fired a Gun to bring one of the said Schooners to, but not so as to strike her; and the Deponent then fired a Shot for one other of the said Fleet to bring to; that the Frigate then fired several Shot at the Deponent's Ship the *Mercury*, some whereof passed over the said Ship's Quarter Deck; that the Fire was thereupon returned by the *Stag* and the *Mercury* (the *Regulator* being at a Distance to prevent the Fleet from dispersing), and again returned by the Frigate: That during the Firing on both Sides, as aforesaid, the said Frigate being then going before the Wind, the Ensign on Board the Frigate was seen to fall, but her Pendant at the Main Top Gallant Mast Head, another Pendant at the Mizen Peak, another Pendant at the Foretop Sail Yard Arm, and a Jack at the Foretop Mast Head, were still flying, and instead of backing her Sails, or laying to, the said Frigate set her Foresail, and hauled her Wind, and endeavoured to run from the said Privateers: Whereupon, it not appearing whether the Ensign had been struck or shot away, and the said Privateers having Reason, by the Conduct, as aforesaid, of the said Frigate, to suspect that she might be an Enemy, some Shots were fired at her to bring her to; when the said Frigate then, and not till then, backed her Sails, hauled down her other Colours, and lay to; and on her so doing, all firing instantly ceased. And the Deponent also referring to the aforesaid Affidavit of *Ernst Frederick Walterstorff*, wherein it is deposed as follows, to wit—"That before the Condemnation of the said Schooner *Catherine* and her Cargo, and the "aforesaid other Nine Danish Ships and their Cargoes, Complaints were made to this Deponent by the Masters and Supercargoes of the said Ships; that they had been turned out of their respective Vessels by the "Captors; and that some of the Crews of the aforesaid Privateers were selling Part of the Cargoes of the aforesaid "said Danish Ships, together with some of their Sails, and in other Respects greatly damaging the said Danish Ships and their Cargoes, notwithstanding the same had not been then condemned." He, the said *Robert Craggs*, further made Oath, That, to the very best of his Knowledge and Belief, neither the said Schooner *Catherine*, or her Cargo, nor any of the other Ships or Cargoes under the Convoy of the said Frigate, were damaged, embezzled, or plundered by the Crews of any of the said Privateers; nor did any of the Crews of the aforesaid Privateers sell any Part of the Cargoes of the said Ships, or any of their Sails, before Condemnation thereof. And he lastly made Oath, That he was informed by Four of the Masters of the said Ships, under Convoy as aforesaid, immediately on the Capture, but whose Names he cannot recollect, that the Papers relating to their Cargoes were on Board the said Frigate.

Affidavit of  
Captain Craggs,  
sworn to April  
29, 1782, as  
to Ship Papers.

*Robert Craggs*, Commander of the Private Ship of War the *Mercury*, made Oath, That immediately after the Arrival of the said Ship *Christiana Amelia* at the Island of *St. Christopher*, he the Deponent delivered into, and left in the Registry of the Vice-Admiralty Court of the said Island of *St. Christopher*, all the Papers, Passes, Sea Briefs, Charter-parties, Bills of Lading, Cockets, Letters, and other Documents and Writings, which were delivered up, or otherwise found on board the said Ship *Christiana Amelia*, at the Time of the Capture thereof by the said Ship *Mercury*; at which Capture the Deponent was present: And he further made Oath, That the said Papers and Writings were delivered into the said Registry as they were received or taken, without any Fraud, Addition, Subduction, Suppression, or Embezzlement whatever.

Affidavit of Samuel M'Quoid, the Lieutenant, and Joseph Vigneaux, Surgeon of the *Stag* Privateer, one of the Captors, made in the Court of Appeals, in Answer to an Affidavit of Mr. *Walterstorff*, exhibited in the Schooner *Catherine*.

PERSONALLY appeared *Samuel M'Quoid*, First Lieutenant of the Private Ship of War the *Stag*, whereof *John Carey* was late Commander, and *John Ireton Pym* is the present Commander, and *Joseph Vigneaux* Surgeon of the said Ship, and being severally sworn to depose the Truth respectively, made Oath as follows: That they have this Day seen a Copy of the Affidavit made by *Ernst Frederick Walterstorff*, Esquire, annexed to the Claim given by him in the above Cause, wherein it is among other Things deposed as follows; "That, on the Twenty-seventh Day of December One Thousand Seven Hundred and Eighty, the said Schooner *Catherine*, in Company with Nine other Danish Trading Ships or Vessels, sailed from the Island of *Guadaloupe*, under Danish Colours, bound to the Danish Island of *St. Thomas*, under Convoy of his Danish Majesty's Frigate *Bornholm Schionning*, Esq; Commander; and that on the Twenty-ninth Day of the same Month, as the said Frigate, with the said Schooner *Catherine*, and the aforesaid other Nine Danish Ships under her Convoy, were proceeding for the said Island of *St. Thomas*, they were met with by the said Private Ships of War the *Stag*, *Mercury*, and *Regulator*, who, notwithstanding the said Frigate, and the said Schooner *Catherine*, and all the said Nine other Danish Ships had Danish Colours flying, attacked the said Danish Frigate, and fired several Shot at her, and obliged her to strike her Colours, and seized and made Prize of the said Schooner *Catherine*, and the Nine other Danish Vessels in Company with her, and carried them all to the Road of *Basseterre*, in the Island of *St. Christopher*: And he further made Oath, That he hath been informed, and believes, that after the said Danish Frigate had been compelled to submit to the superior united Force of the said Privateers, and had actually struck her Colours, they the said Privateers, some or one of them, continued to fire into the said Frigate, and actually fired Two or Three Broadslides into or at her." Now these Deponents depose, That they, in the Month of December One Thousand Seven Hundred and Eighty, belonged to the said Private Ship of War the *Stag*, then commanded by the aforesaid *John Carey* (who is now, as these Deponents verily believe, in the *West Indies*); and that what is so deposed to in the said Affidavit is false and untrue; for these Deponents make Oath, That the said Ship *Stag* being on a Cruise near *Guadaloupe* on the Twenty-eighth of said Month of December, and seeing a Frigate, with sundry Ships under her Convoy, come out from thence, the said *John Carey* approached in the said Private Ship of War the *Stag*, having British Colours hoisted, in order to reconnoitre the said Fleet; and that, upon the *Stag's* so approaching the same, the said Frigate, which was of much superior Force to the *Stag*, fired several Shot at her, which Fire the said Ship *Stag* did not return, seeing the said Frigate was too powerful for her: And the said *John Carey* being apprehensive, from the hostile Conduct of the said Frigate, that she would endeavour to sink the said Ship *Stag*, unless he sheered further off, he accordingly did so; but, the next Morning, falling in with Two other British Privateers, the *Mercury*, *Robert Craggs* Commander, and the *Regulator*, *James Walcott* Commander, the said *John Carey* informed the said Commanders of what had passed; and particularly, that the Ships in Sight consisted of a Frigate of considerable Force, and of sundry Vessels under her Convoy, which had come out of *Guadaloupe*, and of the said Frigate's having fired at the *Stag* upon her only approaching said Vessels, as before set forth; when the said Three Privateers

agreed

( 9 )

agreed to and did bear down to the said Frigate, in order to learn what she was, having all their *British* Colours hoisted; when, on being told that the said Frigate was *Danish*, they informed the Commander of the Frigate that they desired to see the Papers of the Fleet under his Convoy; that a Signal was then made by the Frigate (by hoisting a *Swedish* Jack at the Fore or Maintop Gallant Mast-head), and the Frigate and Fleet forced Sail, the Commander of the Frigate declaring, he would not allow any of the Privateers to see a Paper of any of his Fleet; that it was then agreed amongst the Commanders of the aforesaid Privateers, that the *Regulator* should also force Sail, in order to come up with and obtain a Sight of the Papers of the Fleet; That the same was accordingly done, and the Frigate was again hailed by the *Regulator*, requesting to see the said Papers; that the Commander of the Frigate still refused the same, saying, that the Vessels and Cargoes under his Convoy were all *Danish* Property, and that his Orders were not to let any of his Vessels or their Papers be examined: That the Commanders of the other Two Privateers thereupon informed the Commander of the said Frigate, that they must insist on seeing the Papers; but that he might send an Officer to attend the Search, or if he would hoist out his Boat, an Officer should be sent on board the Fleet; and if the Papers shewed the Ships and Cargoes to be *Danish* Property, upon a legal Trade, they were welcome to proceed; and that he would not be detained Half an Hour: That the Commander of the Frigate, after an Hour or more had been taken up in requesting a Sight of the Papers, still refused to permit any Search to be made, or the Papers to be examined, and at the same Time put the Frigate in a threatening State, by pointing the Guns, taking out the Tomkins, and having all Hands to Quarters: That thereupon a Gun being fired merely to bring one of the said Schooners to, and not so as to strike her; that the Frigate then fired several Shot at the aforesaid Private Ship the *Mercury*, some whereof passed over the said Ship's Quarter Deck: That the Fire was thereupon returned by the *Stag* and the *Mercury* (the *Regulator* being at a Distance to prevent the Fleet from dispersing), and such Fire was again returned by the Frigate: That during the Firing on both Sides as aforesaid, the said Frigate being then going before the Wind, the Ensign on Board the Frigate was seen to fall as if shot away; but her Pendant at her Maintop Gallant Mast Head, another Pendant at the Mizzen Peak, and another Pendant at the Foretop Sail Yard Arm, and a Jack at the Fore or Maintop Gallant Mast Head, were still flying, and instead of backing her Sails, or laying to, as if she had any Intention of striking, the said Frigate set her Fore Sail, and used every Means in her Power to run from the said Privateers; whereupon the said Privateers having Reason, by the Conduct, as aforesaid, of the said Frigate, to suspect that she might be an Enemy, some Shots were fired at her to make her bring to; when the said Frigate then, and not till then, backed her Sails, hauled down her other Colours, and lay to; and on her so doing all firing instantly ceased. And these Deponents, in Respect to what is deposed further by the aforesaid Affidavit of the said *Ernst Frederick Walterstorff*, Esq; to wit, "That before the Condemnation of the said Schooner *Catherine* and her Cargo, and the aforesaid "Nine other *Danish* Ships and their Cargoes, Complaints were made to this Deponent by the Masters and "Supercargoes of the said Ships, that they had been turned out of their respective Vessels by the Captors, and "that some of the Crews of the aforesaid Privateers were selling Part of the Cargoes of the aforesaid *Danish* "Ships, together with some of their Sails, and in other Respects greatly damaging the said *Danish* Ships and "their Cargoes, notwithstanding the same had not been then condemned," in Answer thereto make Oath, That no Part of the said Schooner *Catherine*, or her Cargo, was damaged, embezzled, or plundered by the Officers or Crew of the said Private Ship of War the *Stag*; nor, as they verily believe, by the said Two other Privateers; and that, to the best of their Knowledge and Belief, none of the other Ships or Cargoes under Convoy of the said Frigate, were damaged, embezzled, or plundered by the Officers or Crews of any of the said Privateers; nor, as they verily believe, did any of the Officers or Crews of the aforesaid Privateers sell any Part of the Cargoes of the said Ships, or any of their Sails, or other Rigging before Condemnation thereof, when the Agents of the said Privateers sold the said Prizes.

SAMUEL M'QUOID.  
JOSEPH VIGNAUX.

At *Liverpool*, on the 12th Day of *May* 1782, *Samuel M'Quoid* was duly sworn to the Truth of this Affidavit, before me

ROBERT RICHMOND, a Master Extraordinary in Chancery,  
and Notary Public.

At *Wigan* in the County of *Lancaster* the Thirteenth Day of *May* 1782, *Joseph Vigneaux* was duly sworn to the Truth of the above written Affidavit (except only to that Part thereof which relates to the Ensign on Board the said Frigate being seen to fall as if shot away).

WILLIAM CLAYTON, a Master Extraordinary in Chancery.

Before the Lords Commissioners of Appeals in  
Prize Causes.

The Schooner CHRISTIANA AMELIA.

JEAN PIERRE SERGE, Master.

An Appeal from *St. Christopher*.

## A P P E N D I X

TO THE

RESPONDENT'S CASE.

Spoliation - papers sent Mr. Bayard 4<sup>th</sup> Jan<sup>y</sup> 1796 by the  
Ship Sedgely Capt. Dodge.

1. Brig Dispatch (Topliff) addit
2. Sch<sup>r</sup> Hope (Bates)

24 January 1996

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The Secretary of State, London. 5. Jan<sup>y</sup> 1796. — 140

Sir.

In my letter of the 29. ult<sup>o</sup>. (a duplicate of which is inclosed). I promised to write you more fully, than I could by the Columbus. I shall not however be able to fulfil my promise to the extent I wished in consequence of an indisposition arising from a severe cold I have taken —

Soon after receiving your letter of the 16. Oct<sup>o</sup>. I transmitted it to Mr. Deas with a request that he would solicit of Lord Grenville a prolongation of the time for entering appeals for the reasons stated in your communication. Mr. D. wrote to Lord Grenville on the subject but has not yet received an answer, that I have heard of —

No arrangement has yet been concluded on for the settlement of the cases of cork & damages — Propositions on this subject have been made to Mr. Adams, the substance of which he no doubt

communicated to you see this; but he has not thought  
himself authorized to sign any agreement respecting the  
business - it must therefore of necessity rest until the  
arrival of Mr. Pinckney.

In your letter of the 16. Oct<sup>r</sup> you ask - whether "every  
" case of spoliation must first be brought before the British  
" Court of Appeals that it may be determined whether or  
" not the American merchants can <sup>obtain</sup> adequate compensation  
" in the ordinary course of judicial proceedings?"

Most certainly. By referring to Mr. Jay's representation  
on the subject of these spoliations - Lord Grenville's  
in connection with the seventh article of the treaty it  
appears most evident that the British Gov<sup>t</sup> never con-  
templated making our merchants compensation for their  
losses until they had failed in their endeavours to obtain  
it in the first instance from the Captors -

" Or " you continue " without resorting to such an  
" expensive tribunal may the Commissioners to be  
" appointed by the two governments, take up the  
" cases immediately upon the decisions of the Court  
" of Vice admiralty? In the mean time may the  
" prosecution of appeals be suspended? - Certainly not

as the business is at present arranged. In every case of illegal condemnation, in Courts of the Admiralty in the West Indies an appeal has already been entered where the documents forwarded would authorize the step - this appeal must be prosecuted to effect, Satisfaction sought from the Captor unless the British gov.<sup>t</sup> will consent to charge itself with this business. I agree that the Commissioners shall determine the time, & measure of compensation to be made to the American sufferer. This certainly is its interest as well as ours, & I trust that measures may be directed - & taken to carry this proposed arrangement into effect.

As to "suspending" the appeals after their commencement - this is impracticable - for we never have the Captor given an appearance to our appeal - than they may oblige us either to prosecute it - or to abandon it with pay<sup>t</sup> of our own & their costs -

From a late conversation I have had with one of the House of Bird Savage & Bird, I find they conceive that by the tenor of their engagement they are to pay all costs & damages incurred in the American

appeals, not merely those that may accrue to the  
Cakras - They wish however to be relieved from the  
necessity of making any advances.

In the course of the present & the succeeding  
month I expect the Lords of Appeal will have  
determined some cases of great importance.

Of their decrees I shall do myself the honor to  
inform you by the earliest conveyance possible.

I trust they will not wear the same complexion  
as that in the Petry - but be founded on the  
known & acknowledged law of nations, in which  
case our citizens will no doubt acquiesce although  
in some instances they may prove suffering.

I have the honor to be  
with due respect & esteem

Sir  
Yours obed<sup>t</sup> & aff<sup>l</sup> serv<sup>t</sup>

Samuel Taylor

The Secretary of State

London 18<sup>th</sup> Jan<sup>y</sup> 1796. 142

Sir

By the present opportunity I have the honour to send a list of those cases which are set down for hearing - preparing for hearing &c. - also the opinion of Dr. Nichol in the case of the George Washington, which extends to 10. others, a list of which I propose sending if I can obtain it prior to the letter - Bag of the Retseca being taken away.

In these cases after the opinion of our Counsel given in the Geo. Washington I shall not think myself justified in taking any further steps as agent of the United States - but shall discharge the few costs that have already been incurred on them.

Should the parties concerned think this opinion of Dr. Nichol erroneous I apprehend they must take the case & expense of prosecuting these cases on themselves.

I send likewise the printed cases & evidence on each side in the Sally - & the Tumors. These are the first of the cases under my direction that have yet been set down for a hearing - but as the Exhibitions are returned - & the process from the West Indies their number will increase

You will perhaps be surpris'd to see the name of  
Sir W<sup>m</sup> Scott both to the cases of the applicants & respondent.  
His name is to our cases in consequence of his general  
retainer for American claimants. The reason of his ac-  
cepting a retainer on the part of the Captors, and  
as he explain'd himself to me from his writ to  
have us the expense of a third Council. Knowing  
as I did that they expected the assistance of his talents  
& information, in the first discussion of every question of  
importance between the 2 countries. & that they had  
the power to secure his aid by bringing on first  
such cases as they please. and having the most  
entire confidence in his abilities. Good wishes for the  
success of D<sup>r</sup> Nichol. I did not think it my duty  
to insist on keeping Sir W<sup>m</sup> on our side under his ge-  
neral retainer. His abilities are great but not in my opinion  
superior to D<sup>r</sup> Nichol's.

By this opportunity I must beg leave  
(for the first time) to say a word respecting my  
own concerns. Having understood thro my Brother  
from Mr. Randolph that there was a standing order  
with our Minister here to pay the Salaries of all  
those entitled to a salary from the U States abroad

I have rec<sup>d</sup> the larger part of my last years compensation from Mr. Pinkney and in his absence from Mr. Deas. I shall continue to do the same unless otherwise directed from the department of State.

From the general and constant correspondence I am obliged to support with persons in all parts of the U.S. the necessity of keeping copies of this & of my letters to persons here on Public business independent of my communications to the Department of State at the U.S. I find myself obliged to request permission to be furnished with the means of keeping a clerk & the weight of business I am charged with I find frequently affects my health & when this is the case the interest of those whose business is under my direction must suffer through my health - As the business progresses my correspondence is proportionably increased - which I fear, unless I have some aid, will prevent my attending the courts, & attending to our government & citizens a proper account of their proceedings -

I should be glad to learn whether the costs which may disturb on acct. of different claimants are to be charged to them respectively - or whether the U.S.

in language all expectation of reimbursement

The Court of Admiralty will meet on the 25. Inst.  
& I trust will dispatch during this term a considerable  
number of American cases.

Mr. Pinkney's arrival in London on the 15.  
inst. is a circumstance, which I flatter myself, will  
have an auspicious influence on the business  
of the Claims and Appeals - Mr. Adams expects  
to leave us on his return to Holland some time  
next week.

I remain  
with great respect

Sir Yrs. Obedt. Servt.

Desires to know a Clerk  
to whom sets the Charges  
of the Clerk of the Admiralty

Desires to know a Clerk  
to whom sets the Charges  
of the Clerk of the Admiralty

In the Martinez case the following decrees have been made —

1796.

~~Restored~~ with costs & damages —

2 Feb'y.

The Relief. — Cash. M.

Restored but without costs & damages — except such costs & expenses as the claimant was put to on acc<sup>t</sup> of the proceedings before the Court established by the authority of the Captors at Martinez in which costs & expenses the captors are condemned.

March 11.

Polly — J. Harrison.  
Mary Ann — Reynolds.  
Polly. B. Foster  
Industry. J. Price.  
Flora — J. Williams  
Sally. W. Smith  
Ann... J. Crocker.

Blakepa — J. Tracy.  
Betty. — J. Taylor  
Betty — J. Wiley  
David George. — Fryar  
Fame — D. Saunders  
Dolphin — E. Knappe.  
Sally Betty. M. Hillman.

Ordered for further proof.

Mar. 4.

Lucy. Treadwell.  
Betty — Nowell.  
Betty. M. Ingalls.  
Sally. G. Roney.  
Betty. R. George  
Polly. J. Pittman.  
Mary. P. Leames  
Harmony. J. Parker  
3 Friends. Frank

Polly — J. Davis.  
Marianne. Brentnall  
Iris. — D. Freeman  
Friendship. R. Andrews.  
Phoebe. — W. Cole  
Mary — J. Smith. (rested)  
Jerusha — J. Southworth  
Montgomery — Childs —  
Garland — G. Garland.

Mar 11<sup>th</sup>  
10<sup>th</sup>

Maria J. Burdman.  
 Cyrus. - W. Hale -  
 Fisher - J. Rogers  
 Lark - Atwood.  
 New adventure - Freeman.  
 Eagle - Genie -  
 Mumford - Lelia. Jun.  
 Mary Ann. Bellings.  
 Eliza - Rider  
 Eagle Brown.  
 Eclipse. Cherry.  
 William. - Bunker  
 Hope - Snow  
 Hiram - Warner  
 Maria - Ayers.  
 Olina & Mary - Danson  
 Rosina - Kinsberry.  
 Thos. - Friend & Norton.  
 Polly & Hovey  
 Peggy & Molly - Brown -

The explanation of this list - see my letter to the  
 Sec. of State - by the Secy - Mason & Co.  
 Its contents - 13.

Longon.  
 21. Mar. 1896.

Protocols (or protests) of appeal were  
 interposed on the 15. March<sup>96</sup> in all the above  
 cases except the Relief - Cole -

Rec'd from Messrs. Buckett & Lantry  
 19. March. 1896.

The Secretary of State <sup>(Dub.)</sup> London. B. Nov. 1796. 145

Sir.

In a former communication I had the honour to make you, I mention'd, I believe, having given M<sup>r</sup>. Adams a note of the principal points that would arise in the prosecution of the appeals, on which it would be highly expedient to have some understanding with Ministry prior to their discussion before the Lords of appeal. Since M<sup>r</sup>. Pinckney's return, M<sup>r</sup>. Adams has thought it proper to refer this business wholly to him. I have therefore without delay communicated to M<sup>r</sup>. Pinckney the substance of what has passed during his absence & the measures that demand his earliest attention.

He will avail himself of the first opportunity of discussing with Lord Grenville the principles that must govern the largest proportion of the American appeals. To enable him to do this with the greater advantage, I apprised him of a consultation that was in the case of the Sally (Hayes) to be held at D<sup>r</sup>. Nicholls chambers, to which I had the pleasure to attend him on Saturday last. On this occasion the principle of "how far neutrals are to be prevented from carrying on in time of war a trade not permitted in time of peace" was ably investigated. The question of what should constitute domicility was also consider'd. On this D<sup>r</sup>. Nicholl threw much light, & recommended its being settled, if possible, so far as the citizens of the U.S. are interested previously to its being heard & decided before the Court of Appeals.

M<sup>r</sup>. Pinckney will further state to Lord G. that there are several American cases now ready for a hearing before the Court of appeals, in which points of extensive national importance are to be settled - property to a large

amount depending - the detention of which is extremely injurious to the claimants & will press for their early hearing & decision.

Perhaps before the settlement of the points in controversy between the U States & G. Britain, this Govern<sup>t</sup> may have wished to be satisfy'd as to the measures that would be pursued by the House of Representatives of the U S. respecting M<sup>r</sup>. Jay's treaty. Their answer to the President's speech, has been receiv'd. From this very favourable conclusions are drawn. The friends of the U S. here cannot doubt but that this branch of the Legislature will concur in giving full effect, so far as lies with them, to a national contract made & concluded by authorities constitutionally qualify'd to make & ratify the same. In case our wishes & expectations on this subject are not disappointed, I have reason, at present, to believe that we shall experience considerable aid in the amicable adjustment of our controversies with G. B., particularly in the settlement of the claims & appeals under my direction.

It is with great satisfaction that I inform you of an interesting decision in our favour by the Judge of the high Court of Admiralty in first of the Martinique Cases. It was opened & in part argued on Wednesday last. The Judge then appeared under considerable embarrassment <sup>last</sup> the decree he should make. With a view of freeing himself of the business, & of sending us for justice to the Court of Appeals, he intimated that he might probably direct to "plead & prove" a form of procedure that involves extreme delay, & that is adopted in those cases only where strong suspicion exist against the set up. But finding our counsel strenuously oppose this he consented finally that our claim should be admitted & the evidence in the case read. From numbers of facts stated in the papers annexed to the claim, in this suit that applied strongly to the other cases. We had selected this of the R.

(Cole - M<sup>r</sup>.) to take the lead. Having heard our counsel, the Judge postponed the further arg<sup>t</sup> of the case until yesterday, when the Kings advocate was heard on behalf of the Captors. His argument was rather a defence of the characters of Sir J. Jervis & Sir C. Grey, than an opposition to our claim. The hearing finished, the Judge, without hesitation decreed us restitution of vessel & cargo, to which after a little further consideration he added cost & damages. The next case was then called. But as Sir W. Scott declared himself to be unprepared in this & following cases, as we had gained an important point, & were interested in showing every degree of candour & liberality, we agreed not to press the business further this day, but to postpone the hearing of the other cases until the next Admiralty day, which will be on the 17 instant - Were there any reliance to be put on the uniformity of Sir James Marriotts opinion, we might promise ourselves a like sentence in all the suits against Sir J. Jervis & S. C. Grey. But really there is no saying what will be the opinion of the Judge of the Admiralty for two days on the same subject.

I propose sending you for the information of yourself & our fellow-Citizens a short report of this case, whenever I can find time to copy out the notes I took in it of the arguments of counsel, & the opinion of the Court.

I have just received the three inhibitions sent by M<sup>r</sup> Hall in the Lady Walterstorf, with M<sup>r</sup> Wagners letter of the 11<sup>th</sup> Dec. This I have sent to M<sup>r</sup> Pindaney. His opinion on the business referred to in this letter, will be my guide. Whether he has <sup>made</sup> any or what arrang<sup>t</sup> with Lord G. respecting these cases of cost & damage I cannot say - When I learn, I shall do myself the honour of writing you fully on the subject.

With great respect & esteem,

Your most obedient Servant.

Sam<sup>l</sup> Bayard

Sam. S. Maynard, Dec 14. 1970.  
rec. March 29.

In

New York Coffee houses & Feb 14/47

Inclosed is a memorial which I prepared the beginning of this week and which having been approved by the W. Scott & Dr. Meade was this day laid before the Lords of Appeals - It has had a decidedly precise, an effect that will operate highly in favor of our interests - The Master of the Rolls spoke of the conduct of the Judges of the Courts in "his" as "damnable & abominable" Lord Mansfield observed that it would be proper that Lordships should set after the Counsel had withdrawn in order to determine the form of a letter to be addressed to the Duke of Portland on this subject in consequence of my memorial -

There were no cases argued this day & we understood the Lords will certainly begin to hear such American cases as stand first on the list which involves the question of the trade between the U.S. & Europe - on next Saturday

This however will depend on the circumstances of the Law Lords - being or not being able then to attend at the Bar - Have the honor

James C. Bayard, Jan 14. 1747

to be with much regard

Yr old ser<sup>t</sup>

Sam<sup>l</sup> Bayard  
Sam<sup>l</sup> Bayard

Sam<sup>l</sup> Bayard  
July 6. 1796. we: ap: 2

London 29 Feb. 1796.

148

Mr. James King

Sir

I have to inform you, that the appeal, in the case of the Nancy, Florence, was heard on Saturday last before the Lords Commissioners of appeals and determined. They have affirmed the sentence of the Vice Admiralty Court in the Bahamas; in consequence of which you will lose the costs incurred in this Court. Of the costs of the appeal they say nothing; each party therefore must pay their own costs. Your Captain's having thrown over papers on being charged by the privateer is the reason for not having given the costs of the Court below. I shall on behalf of our government pay your part of the costs of appeal: whether you are to refund them, you can learn from the Secretary of State.

I remain your friend

Yr. hble servt.

Sam. Bayard

[Enclosed it according to the address]

Sam. Bayard London 29 Feb.

The Secretary of State

London 29. Feb. 1796.

149

Sir.

On the last. & the Saturday before  
the Court of appeals proceeded to hear & determine  
the Three first of the cases, set down for hearing  
which have been brought forward under my ~~direction~~  
in quality of Agent of the U.S. & of the parties concerned.  
These were the Farmer - the Harriet & the Nancy.  
in each of which the question of the direct trade between  
the U.S. & the French West Indies was involved, but  
in neither of them was it made or argued.

These cases have been put first on the list, for  
the express purpose I apprehend, of deciding the  
question incidentally, & my surmise on this subject  
I find just. from a short conversation with  
Sir W. Scott. I understand from him that Govern<sup>t</sup>  
do not intermeddle making a question respecting this  
trade, but will for the present suffer it to pass with  
- out argument in our favour - This will of course  
secure us of success in the majority of our cases - for

the far larger part of the condemnations of American  
ships in the West Indies, were grounded either on the  
order of the 6 Nov 1793. or on the principle of this order.

I'm giving up this principle <sup>however</sup> (which by the by, due  
to <sup>be</sup> done not as a matter of right but of <sup>favour?</sup> merit) I perceive  
~~however~~ that it is intended to be extremely rigid in  
requiring in the American cases - the clearest proof  
of property in vessel & cargo being in American citizens  
residents in the U.S. - that there should be no ground  
to suspect them being concerned in covering enemies  
property - or doing any act contrary to the most strict  
of impartial neutrality.

Since writing your last note  
other of the Martinique cases have been decided - & in  
the course of the present week however we expect  
several of them will be heard & determined. -

Since the receipt of Mr. Wagners letter of the 11.  
I have waited with great impatience for your  
instructions respecting the cases of cost & damage -  
During the present term Sir W. Scott & J. G. Nicholls

have been too much engaged to pay any attention  
to these cases, but the term closes with the present  
week after which they could proceed to the settlement  
of this case without delay, - or any great interruption.

I have received the copies of proceedings at  
Tortola - forwarded by W Medford in the Sally,  
which were immediately put into the hands of our  
Proctors - Whenever copies of proceedings in the Courts  
below are received - & appearances given by the Parties  
every measure is - & will be taken to expedite the  
hearing of our cases at the earliest day possible.

I have the honor to be  
with great respect &c &c &c.

Yours obed<sup>t</sup> &c &c &c

Sam<sup>l</sup> Bayard

P.S. The enclosed letters are left open for your perusal

vi. April 22?

The Secretary of State.

Saml. Bayard  
July 29. 1796. vi. April 22?  
answ. 23?

To His Excellency the Secretary of State  
of the United States of America

The Memorial of Robert Slade  
of Doctors Commons London Proctor

Sheweth That your Memorialist was applied  
to in the Beginning of the year 1785 as a Proctor  
of the High Court of Admiralty of England  
and of the High Court of Appeals in Prize  
causes by Samuel Bayard the Agent  
appointed by the Government of the United  
States of America to prosecute Claims and  
Appeals in Prize causes on Behalf of  
Citizens of said States, to undertake in his  
said Capacity of Proctor the management  
of certain causes to be prosecuted by him as  
Claims and Appeals in the said Courts.

That your Memorialist consenting to  
undertake the said Causes, the said Samuel  
Bayard as the Public Agent of the United  
States agreed to pay your Memorialist his

Samuel Bayard

regular and accustomed Bills in the same  
as was done by his other Clients according to the  
constant usage of his Profession and as there  
were a great many Causes the Expences of which  
would be very heavy it was also expressly  
stipulated by the said Samuel Bayard on  
Behalf of the Government of the said United  
States that your Memorialist was to be paid  
Twenty Pounds in each Cause on entering the  
Appeal, Eighty Pounds more on settling down  
Cause for Hearing and the Remainder as soon  
as each Cause was actually heard and the Bill  
made out, though the said Samuel Bayard  
could not in his Capacity of Public Agent  
make himself personally responsible, yet he  
pledged the Faith of the American  
Government thereto, sanctioned by the Authority  
of Mr Jay the American Minister then in  
London

That your Memorialist in consequence  
of such Agreement undertook the Management  
of the Causes entrusted to his Care by the said  
Public Agent and prosecuted the same with  
great Zeal and unremitting Diligence so as  
to receive the repeated Approbation of the said  
Samuel Bayard himself and also of his  
Successors in office

That notwithstanding the Pledge and Assurances -  
 given by the said Samuel Bayard to your -  
 Memorialist that he should be paid in the -  
 manner already stated as the said Causes were  
 proceeded in, the Payments were suffered to  
 run in Arrear, for want of his receiving -  
 Remittances from the Treasury of the United  
 States in so much that on your Memorialist  
 furnishing the said Samuel Bayard with a  
 General Account on his leaving England, to  
 return to America there was due to your  
 Memorialist the accumulative Balance of:-  
 £10174. 12. 0

That the Balance due to your Memorialist on  
 the 26<sup>th</sup> July 1799 was £14184. 13. 8  
 on the 31<sup>st</sup> Dec<sup>r</sup> 1799 - 11332. 11. 9  
 on the 31<sup>st</sup> Dec<sup>r</sup> 1801 - 13362. 14. 9  
 which last Balance was reduced by Degrees -  
 till the 11<sup>th</sup> October 1803 when it was Two Thousand  
 Seven Hundred and Thirty two Pounds five  
 Shillings and two Pence and which Sum is still  
 justly due and owing to your Memorialist.

That your Memorialist frequently applied  
 to the said Samuel Bayard and also to Rufus  
 King Esq<sup>r</sup> the American Minister in London  
 for Payments of Money on Account of said Causes  
 in manner originally stipulated but without  
 Effect notwithstanding your Memorialist was

put to great Pecuniary Embarrassment to raise  
the Money necessary to carry on the said Causes

That after the Causes were finally heard  
in the Courts of Admiralty and Appeals they  
were referred by the Parties concerned to the  
Board of Commissioners appointed under the  
Treaty of Amity and Commerce concluded between  
the Governments of Great Britain and America  
ascertain the Amount to be paid in each Cause  
by the British Government and the said Board  
of Commissioners having resolved that the British  
Government should only be subject to pay the  
Costs as taxed of the American Claimant your  
Memorialists Bills were accordingly taxed  
comply with the Regulation made by the said  
Board of Commissioners, but which could  
in Law or Equity preclude your Memorialists  
or the other Proctors concerned for American  
Citizens from receiving the full Amount of a  
fair and regular Bill.

That such Taxation being seldom adopted  
except for the sake of ascertaining the Costs  
necessarily incurred between Party and Party  
Cases where the Judge has seen fit to condemn  
of them to pay the Costs of the other your Memorialists  
submits it cannot by any fair or liberal Construction  
be resorted to in the present Instances more  
especially as part of said Extra Costs have  
been

been occasioned by Payments actually disbursed in employing a third Counsel or otherwise with a view to benefit the Client.

That your Memorialist confiding in the Liberality as well as Justice of the United States, the Honour of their Public Agents and the Fairness of his Bills did on the Delivery of his Accounts from Time to Time carry out their full Amount to the Debit of the United States noticing therein at the same Time the Sums deducted by the Registrars Taxation and no objection having been made till the Period of final Settlement he considered the Acquiescence of the Agents successively appointed as an Admission that he would be paid his full Costs according to the general Practice of British Merchants in which Expectation he was confirmed by the Agents of the United States themselves accepting Payment of full Costs in many Instances from the Parties and by receiving the same himself by such of the Parties as occasionally of their own Accord came to a Settlement with your Memorialist. —

That George William Erving Esq<sup>r</sup> the late Agent of the United States for Claims and Appeals having directed the Account between your Memorialist and the said States to be furnished to him in order to its

being settled and the Balances discharged has refused to pay your Memorialists Bills as made out and charged by him to the Account of the United States, saying that he does not consider himself authorized to pay your Memorialists any Thing beyond the Costs as taxed under aforesaid Regulation of the Board of Commissioners.

That prior to Mr. Bayards Return to the United States your Memorialists and the other Proctors to whom the Interest of the Citizens of said States in the Management of their Causes had been confided requested a personal Interview with the aforesaid Rufus King Esq<sup>r</sup> with respect to the more regular Payment of their Costs in Future and the Taxation of them by the Registrar of the Court at which Interview Mr. King gave such Assurance of the Honor and Liberality of the Government of the United States as induced them to rest satisfied that if the Bills were fairly made out and the Business properly conducted their said Extra Costs would be paid by the United States. And your Memorialists crave leave for the Information of your Excellency to annex a Copy of the Minutes made on the occasion of said Interview immediately after the same had taken Place.

original of which was signed by your Memorialist and the other Proctors present and now remains in their custody.

That Independent of the foregoing Considerations your Memorialist submits that the Loss of Interest alone on the Balances due to him on the Accounts delivered by him at different Times and to which he submits he is justly entitled would more than equal the Extra Costs in Question.

That your Memorialist has moreover suffered a Loss of Two Thousand Pounds by the Failure and Bankruptcy of Messrs Bird Savage and Bird the Bankers of the United States in consequence of his having consented to postpone for a few Days the Payment of an order on them to that Amount received from the said Mr. Erving the Public Agent in part Payment of his Account and which Postponement he would not have agreed to if the Respectability of their Situation as Bankers to the United States had not induced him thereto.

Under all these Circumstances your Memorialist trusts that the Government of the United States will order his Bills and Accounts to be settled and paid on the same Footing with other Claims, the

Taxation of his Bills not being applicable to  
them and having been made solely in compl  
with the Regulation of the Board of Comm  
appointed by the Treaty of Amity and Comm  
between the United States and Great Brit

Doctors Common } Robert Slad  
24<sup>th</sup> Sept. 1805 }

1835

(Copy) Memorandum 27 February 1798

Mr. Bayard having expressed a Wish as he was about returning to America to Mr. Townley,

Mr. Slade and Mr. Bush that they would see Mr. King the American Minister in order to have some Conversation with him respecting the Appointment of Mr. Williams as his Successor in the Character of Agent for prosecuting Claims and Appeals in Prize Causes and in regard to their Security as to Payment of their costs they accordingly this Day waited on Mr. King at his House in Great Cumberland Street and on their Introduction by Mr. Bayard Mr. King informed them that Mr. Bayard having obtained Leave to return to America Mr. Williams had been duly appointed his Successor and was daily expected to arrive in England. Mr. King then read to them so much of an Appointment to Mr. Williams as authorized him to act as Agent of the United States for the further Prosecution of Claims and Appeals in like Manner as had been done by Mr. Bayard for the Purpose of completing the Business for which Mr. Bayard had been appointed - on its

being suggested to Mr. King that as the Claims  
given in the Courts of Admiralty and Appeals  
were in Mr. Bayard's own Name it might  
perhaps be requisite that Mr. Bayard should  
appoint Mr. Williams his Attorney Mr. King  
replied that he should think an extract  
or copy of Mr. Williams's Appointment to act  
in all respects as Mr. Bayard himself could  
have done, would be sufficient or would  
perhaps better answer the Purpose and he  
assured Messrs. Townley, Slade & Bush that  
though he did not take upon himself  
personally the Responsibility of their Expenses  
or those of other Gentlemen in Doctors  
Commons acting for Mr. Bayard or Mr.

Williams yet that they might rest assured  
that the United States would honorably  
satisfy their just Demands which they may  
have for Business done as well by Mr. Bayard's  
orders as by those of Mr. Williams when  
those Gentlemen as Agents might not be  
themselves paid the Demands at the  
same time saying "Gentlemen you run  
no Risk in this Business -" It being  
then observed to Mr. King that as the  
of the Proctors had been submitted  
a Taxation by the Registrar and that

was unusual so to do as between a Proctor and his Party and that Cases had and might arise wherein Charges for extra copies of Papers, Counsel &c might be taken off by the Registrar tho' done for greater Caution or Benefit of the Party and that it would be hard for the Proctor to lose such Charges. Mr King apologized for any Appearance there might be of a strict Attention to Fees both said as he was in some Measure responsible for obtaining a certain Degree of Approbation by proper Persons here of the Bills he hoped he should stand excused in so doing observing at the same Time that there had been considerable Sums advanced on Account by the United States but that the Reimbursements had not followed as had been expected which had it been otherwise would have enabled the Agents of the United States to have better satisfied the Demands of the Proctors concerned and in respect to the Extra Matter of Charges deducted he had no doubt but that on an Application with a Statement shewing the Propriety of the Steps taken which occasioned the Extra Charge such Charge

would also be paid by the United States.  
Mr King here recommended that Mr. Bayard  
should immediately be furnished with a  
Statement or Abstract of each Proctors Account  
or Demand made up to the present time in  
order that he Mr. Bayard might not only  
deliver the same over to his Successor Mr.  
Williams but also on his arrival in America  
exhibit them as explanatory of the State in  
which he had left the Business on his  
leaving England. And Mr. King further  
added as Mr. Bayard appeared to have  
given Satisfaction while the Business remained  
under his Direction he thought he could  
answer for Mr. Williams doing the same  
to which Messrs Townley Slade & Bush  
replied that Mr. Bayard had indeed given  
great Satisfaction and that they should part  
with him with great Regret

James Townley

Robert Slade

James Bush

Copy of W. C. Cresswell's letter  
to Mr. Bayard -

Rec'd in Samuel May's  
20 Jan 1846

Lucy. Joseph Mells Woodman M<sup>r</sup> By mistake before  
called J. W. Mells

M<sup>r</sup> Creswell presents his Compl<sup>t</sup> to M<sup>r</sup> Bayard, and begs leave  
to inform him that a Proctor has this morning appeared for John Nash  
Com<sup>r</sup> of the private Ship of war Retrieve the Captor of the said Ship  
and Cargo, so that the process being transmitted, it is not material  
that any further steps shou'd be taken to serve the inhibition,  
citation and monition, Sent him on the 28<sup>th</sup> Oct<sup>r</sup> last

Commerce E Preble M<sup>r</sup>  
Osurora N. Amazeen  
Flora C. Tollinsbee

In the above three cases the Kings Proctor has appeared for  
the Captors and Respondents as before had informed  
M<sup>r</sup> Bayard he intended to do.

Doctor Commons  
29<sup>th</sup> Jan<sup>y</sup>. 1796.



## The Brig George Washington

Wm. Mazon

This Vessel was one of the Fleet of Twelve or Fourteen American Vessels which were taken the Day after their Departure from their Chesapeake by a Squadron of His Majesty's Ships under the Command of Admiral Murray and carried to Halifax.

The whole Fleet was, at the Time of the Capture, under Convoy of two French Ships of War, which had been appointed as a Convoy to France the place of its Destination the Cargo of this Ship consisting of 612 Barrels of Flour was for account of the French Government as were likewise the Cargoes of said other Ships.

The Judge of the Vice Admiralty Court at Halifax condemned the Cargo

as French Property and restored the  
Vessel as American Property but found  
against the Claim made for Freight,  
Demurrage and Expenses & condemned  
the Claimant in the Taxed Costs of  
the Claim.

From the Decree refusing Freight  
the Claimant has appealed and the  
Papers have been forwarded to Mr. Boyer  
in order that he might in his official  
Capacity prosecute the said Appeal.  
The like Decree has been made in  
an Appeal entered in all the other  
Vessels taken at the <sup>same</sup> time & the proper  
Documents transmitted to Mr. Boyer  
for the purposes aforesaid and Mr. Boyer  
to save the Rights of the Parties  
so far prosecuted the said Appeal  
as to have the usual Inhibitions given  
under Seal.

The papers transmitted to Mr. Boyer  
in this Case left ~~in the hands of~~  
but prior to any further steps <sup>being</sup> taken

Mr Bayard  
160

the prosecution of the said Appeals, is -  
desirous of having your opinion.

1<sup>st</sup>. Whether there is any probability that  
the Lords of Appeals will Reverse the  
Decree appealed from Pronouncing that  
Freight is Damurrage is due to the  
Amusement Demurrer. And

2<sup>d</sup>. Whether it is advisable on any view  
to bring the said Appeal to a hearing.

Opinion

although a Neutral Ship may legally carry Enemies  
property yet the Belligerent has on the other hand  
a right to seize that property paying the Neutral  
his Freight and Expenses. If the Neutral in order  
to prevent the Belligerent from exercising his  
legal right puts himself under the Enemies convey,  
the Claim of Freight and Expenses is thereby forfeited.  
It is a departure from that Impartiality which the  
Neutral is bound to observe. The only question in  
this Case would be whether the Ship itself was  
not under the circumstances liable to Confiscation.  
But as the Ship has been restored I do not think  
it advisable to bring the Appeal to a hearing.

I. Nicholls

Commons  
January 15<sup>th</sup> 1796.

in the Geo. Washington

recd in Mr. Dugan's letter of  
Jan 7/18 976.

13<sup>th</sup> 1896

161  
London. 14 March 1796.

Dear Sir

Inclosed I send you a list of  
the several letters I have written to the late  
Present Secretary of State - Be good enough to  
let me know whether they have all been  
rec'd - the rec<sup>t</sup> of many of them has been acknow-  
-ledg'd - but as to the fate of the majority - I am quite  
impaired -

Should there be letters from any of  
the claimants to the Secretary of State <sup>in the office</sup> ~~as to~~  
as to forward them in thank delay. I  
have some difficulty yet in settling  
under my charge, as the agent of the individual  
claimants - The Judge of the Admiralty has stated  
doubts on this point which I thought had been  
settled - The least I imagine he will be satisfied  
with will be seeing the letters of the claimants  
to the Sec<sup>y</sup> of State - & the content of the authority  
given by our gov<sup>t</sup> to me - I trust there will  
be no delay in sending me the proofs as soon  
as possible after being rec'd at the Depart<sup>t</sup> of State

I remain Dear Sir

Your friend & the serv<sup>t</sup>

Samuel Parnell

J. Wagner Esq

J. Wagner Esq.

Department of State.

Chicago.

162

To the Most Noble and Right Honorable the Lords Commissioners of Appeals in Prize Causes.

The Memorial of Samuel Bayard <sup>Humbly Sheweth</sup> Esquire the Agent appointed by the Government of the United States of America to prosecute Claims and Appeals in Prize Causes.

That when British Cruisers first began to capture and make prize of all American Vessels in the West Indies in consequence of His Majesty's order in Council of the 6<sup>th</sup> November 1793. it was generally believed by the Citizens of the United States, that such Captures were to be considered as a prelude to general Hostilities between Great Britain & America.

That the Americans <sup>being</sup> under this Impression and from the further Circumstance of their not being able to prosecute the Security required by the Judges of the Vice Admiralty Courts in the West Indies, the Bahamas & Bermuda Islands, from Claimants, or giving in their Claims the Masters of the Ships so seized and carried into Port in general abandoned their Vessels and Cargoes to the Captors and returned to America to apply to the Government of the United States for Protection and Indemnification.

That the Government of the United States accordingly took Charge of the Business and by Public Advertisements in the American News Papers called upon all persons who had suffered by Captures made by the Vessels of War of the belligerent Powers, to send an Account of the same to the Secretary of State, that proper Measures might be taken to procure them Compensation for their Losses. That in consequence of this Notification a great Variety of Representations were made by the different Sufferers whose Vessels and Property had been captured by the Cruisers in the West Indies.

That Mr. Jay was sent by the Government of the United States of America to England for the express purpose of requiring of His Majesty's Government Restitution of such American Property as had been illegally and unjustly seized & condemned in the British West Indies, the Bahamas & Bermuda.

That Mr. Jay having informed the <sup>of the U.S.</sup> American Government, that the Restitution required could only be obtained thro' the Ordinary Courts of Justice in Great Britain, the American Government immediately before His Majesty's Order in Council of the 6<sup>th</sup> August 1794 attending the same for receiving Appeals in American Cases) appointed a Gentleman of the Law (Mr. Nathaniel Higginson) to proceed to the West Indies in a Vessel chartered by the Government and to obtain from each Island where the Condemnations of American Vessels had taken place, Copies of the Proceedings ~~therein~~ in each case and to enter an Appeal from the sentences of Condemnation.

That the said Mr. Higginson did accordingly proceed to the West Indies and obtained Copies of the sentences given in American Cases in the Island of Barbadoes & while at Dominica on this Business he was taken ill of the yellow Fever & died.

That in October 1794. your Memorialist was appointed by the Government of the United States to prosecute Claims and Appeals in the Courts in Great Britain on behalf of such American Citizens as were Suffered by the Captures of British Cruisers.

That your Memorialist Arrived in London in December 1794. and immediately applied himself with the Aid of his Executors to the Examination of such Papers as were transmitted to Mr. Jay or were handed to your Memorialist himself with a view of entering Claims & Appeals agreeably to the Forms of your Lordships High Court.

That finding the Informations insufficient for the purpose of obtaining the usual Inhibitions in a great many Instances, he made a List of such Cases & transmitted the same (together with the Inhibitions which in other Cases he had obtained in the regular Course of proceeding) by the earliest Spring Vessel for Philadelphia to the

Secretary of State of the United States with a Request that Copies of the Sentences and such further Information in these Cases as would enable him to enter the Claims and Appeals might be obtained and sent to him as expeditiously as possible.

That your Memorialist has been advised by Mr. Fitzsimmons the Chairman of the Committee of Merchants appointed to assist the Government, in procuring Copies of the Proceedings in American Cases, in the West Indies - that the Inhibitions issued by your Lordships Authority, and sent to America by your Memorialist were immediately forwarded from America to be served on the Judge Registrar of the Vice Admiralty Courts and on the Captains in the West Indies. That a Vessel was chartered by Government for this very purpose under Charge of an Agent employed by the Government to superintend the Service of said Inhibitions, who was also directed to procure authentic Copies of the proceedings in the different Cases.

That the Agent so employed returned to Philadelphia in September last, bringing with him the Copies of the proceedings in the Island of Antigua, where Condemnations were but few, and which he obtained without Difficulty, but those Islands where the Condemnations were numerous he commissioned some Confidential Person in each Island to procure and forward such Copies to America.

That your Memorialist is further informed by the said Mr. Fitzsimmons by Letter of so late a date as the 18<sup>th</sup> November last, that the Vessel sent out by Government as aforesaid had arrived at Philadelphia the Evening preceding the Date of said Letter, and had brought Copies of proceedings in about fifty Cases which were to be forwarded to your Memorialist by the first direct Conveyance, but Mr. Fitzsimmons in his said Letter informs your Memorialist that there is no present prospect of getting Copies of proceedings from Jamaica, or Bermudas; that Mr. Fitzsimmons is promised a Notarial Copy of the Demand made for them in Jamaica, and the Registrar's Answer, and that the Gentleman employed at Jamaica writes him, that without an Order from some competent Authority in England the Copies will not be procured from years to come.

That your Memorialist in the Month of February 1795. prayed your Lordships by a Memorial, a Copy of which is herewith Annexed, to grant them leave to enter Appeals in Sunday Cases, where his Instructions were not sufficient to enable him to do so in the Ordinary Course of proceeding, and your Lordships taking the same into Consideration were pleased to order Monitions to issue under Seal of the Court, against the Registrars of the Vice Admiralty Courts in the West Indies, the Bahama Bermudas Islands, directing them to transmit to your Lordships Registry a List of all the American Vessels proceeded against as Prizes during the present War, in their respective Courts with the Sentences given in each Case, and dates thereof. and your Memorialist begs leave to state to your Lordships that Returns to said Monitions from some of the West India Islands have been accordingly transmitted into your Lordships Registry, but that no such Returns have yet been received from others, particularly from Jamaica Bermudas

where the greatest Number of American Vessels have been condemned although  
a very 12 Months have elapsed since your Lordships said Monitions had  
been issued. as Memorialist begs leave further to state, that your Lordships on the 18<sup>th</sup> of  
July 1796, extending the Time in favor of American Claimants for  
entering their  
Appeals under His Majesty's said Order in Council should be renewed in this Court  
after the First January 1796.

That your Memorialist on the 29<sup>th</sup> of the said Month of July 1796 forwarded a  
copy of your Lordships said Order to the Secretary of State of the United States.  
from whom your Memorialist has received a Dispatch dated the 16<sup>th</sup> October last.  
acknowledging the Receipt of the copy of said Order, and in which the Secretary  
of State observes, that the Time assigned by the said Order, in cases where the  
Ordinary Time for appealing had elapsed, appeared to the Government of the United  
States to be much too short, By Reason,

1. That in many Instances your Memorialist would have no other Knowledge of  
the Cases than what was to be derived from the Proceedings of the inferior Courts.
2. That with all the Diligence practicable to obtain these proceedings, delays were  
found inevitable.

The Secretary of State proceeds to mention summarily the different Measures  
pursued by the Government of the United States to obtain the Copies of Proceedings  
from the West Indies after which he says, "from Bermuda the Gentleman  
employed by Government writes that the New Cases give so much employment to the officers of  
the Court, that he is not able to get the Requisite Papers in the Old Cases  
and adds that there is Reason to suspect that there, as well as in some other Places  
in the West Indies, the Officers are not disposed to proceed very speedily in this  
Business."

That upon the Receipt of this Dispatch an Application was made by the  
American Charge des Affaires, in the Absence of the American Minister, to His  
Majesty's Secretary of State requesting an Extension of the Time for entering  
Claims and Appeals in American Cases in Answer to which Application the American  
Minister has been informed that no fresh order of His Majesty in Council allowing  
further Time for entering Appeals when the Ordinary Time of entering Appeals  
has elapsed, is to be expected but that it <sup>will be</sup> left to the Discretion of your  
Lordships to Determine on the Special Circumstances of each Case, where Applications  
for leave to appeal may be made, whether such leave shall be granted or not.  
Under these Circumstances your Memorialist as the Agent of the United States &  
behalf of those Citizens whose Interests have been committed to his Charge has  
thought it a duty incumbent on him to submit the foregoing Statement of Facts  
to your Lordships for the following Reasons.

In order that your Lordships may have a Connected view of the Various measures  
pursued by the Government of the United States to procure the necessary Papers to

enable your Memorialist to enter & prosecute claims & appeals agreeably to the  
Established forms of this High Court.

and to prevent, if possible the necessity of repeating the same Facts in each case  
in which he may hereafter have occasion to apply to your Lordships for leave  
to appeal.

2<sup>nd</sup> In order to show your Lordships that whatever delay has occurred or may  
occur in bringing forward the necessary Papers and Copies of Proceedings in app-  
peals, the blame has not ~~been~~ <sup>arising from</sup> any want of Due Diligence in the  
Government of the United States or its Agents.

3<sup>rd</sup> In order to prevent appeals from being pronounced deserted, where applications  
that purpose may be made to your Lordships unless under circumstances which exclude  
the probability of an intention in the American Proprietors to prosecute such appeals.

4<sup>th</sup> In order to submit to your Lordships the necessity of enforcing by such means  
as your Lordships may deem expedient & effectual, obedience to the Monitions hereto  
issued by this Court against the Judges & Magistrates of the Vice Admiralty Court  
in the West Indies the Bahamas & Bermuda Islands, <sup>directing them</sup> to transmit authentic Copies of  
proceedings in American Cases, within a reasonable time, more especially with regard  
to those Judges & Magistrates who have not hitherto obeyed your Lordships Monition  
ordering the Transmission merely, of a list of the American Cases which have been  
adjudged in their respective Courts.

And your Memorialist shall ever pray

Sam<sup>l</sup> Bayard

Copy of a letter to His Excellency T. Pakenham Esq.  
dated 14. March. 1796. — from. S. Bayard. 164

Dear Sir.

It seems highly expedient that the arrangement respecting those cases where the amount of the loss will not justify the expense of an appeal should be brought to an early conclusion. Sir W. Scott & Dr Nichol after the present week will have leisure to attend to them, & perhaps might <sup>satisfy</sup> the greater part if not the whole of them prior to the commencement of the next term which will be about the middle of April. I must therefore submit to you whether it would not be most expedient to conclude with Lord Grenville the arrangement proposed, & should instructions be received from the department of State varying the mode of settlement I can only decline laying any further cases before Sir William & Dr N.

I must <sup>beg</sup> your advice & opinion also respecting the Mathewson case which have been heard & decided by the Judge of the Admiralty on Thursday & Friday last.

In the first case argued before him (the Schooner Relief Cole - W. J.) he strongly reprobated the conduct of the captors — declared his intention to do full justice to the claimant — & did so in this case — by decreeing the restitution of unpaid Debts — with costs & damages.

In the second case argued before him he showed a

disposition so variant from that in the first - so hostile  
to our interests & so remote from impartiality as to excite  
our disappointment & mortification. He said every thing  
he could with decency say to compel the Council for the  
Captors to oppose my being admitted to prosecute claims  
for American citizens unless specially, & directly, authorized  
by each individual - he also distinctly suggested his wish  
that the Captors counsel would demand the most full  
& rigid proof of property on our part. The liberality of  
Sir W. Scott however relieved us from the hardships the  
Judge would have imposed upon us in these particulars.

In examining the list of vessels seized & sold at  
Martinique & Guadaloupe it was found that in a  
number the proofs were so clear that the Kings Attor-  
= nées did not think himself in candour & justice, as  
= viz'd to oppose the restitution of vessel & cargo. In these  
therefore the Judge restored but without costs or  
damages - except the trifling costs of a claim incurred  
at Martinique - thus obliging us to receive property  
(admitted by himself to have been most illegally &  
injuriouly taken from us - & most wrongfully, condemned  
(sold) without interest from the time of seizure -

& without the costs we have unavoidably incurred  
 here in the recovery of this property - In the majority  
 of these cases he exacts further proof which it will  
 require at least 6 months to procure, & if we are to  
 have the same sentence in these cases - as in those  
 lately determined. the loss & injury will be much  
 increased - I must beg you would represent this  
 matter to Lord Grenville & advise me "whether  
 in your opinion I had best enter an appeal in  
 these cases or take the value of the vessel & cargo  
 decreed to us & look to the Commissioners under the  
 treaty for costs & damages -

I remain Dear Sir

Your obed<sup>t</sup>. hble serv<sup>t</sup>

J. B.

Copy of letter from  
14th March 1796.

The Secretary of State London 15. March 1794<sup>166</sup>

Sir

The inclosed copy of a letter to Mr. Pinckney - will explain to you the situation of the Mackenzie cases & those where our claim is only for costs & damages - The letter to Mr. Fitzsimmons will inform you of the probable determination in the Sally - ~~case~~

In regard to the first description of cases I am much at loss what steps I shall take - I am aware that the claimants are anxious to receive as early as possible the value of those vessels & cargoes taken from them by Sir J. Jervis & Sir B. Grey - & that perhaps some of them would agree to receive this alone rather than to incur further delay in pursuit of costs & damages - but still to receive this partial restitution - unaccompanied by any recompense for the detention of their property for nearly 2 years - or for those costs which we necessarily have expended in pursuit of justice - would be admitting the legality of the first seizure & submitting to what is far short of the "complete & impartial justice" promised by Lord Grenville to Mr. Jay.

If we intend to appeal from the sentence of the  
Court of admiralty, ~~then~~ we must take some step for  
this purpose within 3 months from the date of the  
sentence. I shall wait till the last day of this period  
in hopes of hearing from you on the subject. Should  
I not hear however. I shall advise with our Comm.  
It probably take out an inhibition (the cost of which  
will be small, & which will secure our right to appeal  
for a year) - unless the Commissioners under the  
treaty shall previously arrive. I assume the settling  
of this business.

I most sincerely hope that by the  
consent of both countries these Commissioners may  
proceed without delay to the settlement of all the  
causes under my direction - If they do not the pro-  
spect to our claimants will be unpromising indeed.  
If they are not to take cognizance of these cases  
until we have sought justice from the individual  
captors thro' all the forms of the English Courts of  
Admiralty - they may calculate on continuing I  
think, to sit & settle disputes between our citizens & British  
subjects - until the commencement of another war.

I enclose for your information a copy of a letter I received some time since, from Mr. Stabe giving ~~the~~ a history of the case of the "Nicholas" - you will hence perceive the obstacles, which venacious captors, may interpose to prevent a repayment of the unjust gains they have reaped from unoffending neutrals -

I have not yet learnt whether the High Court of appeals meet on Saturday next or not, to give sentence in the Sally, & to hear other cases argued - after next Saturday however, I understand from our Proctor they will not meet for a month on account of the Easter holidays -

I shd for this conveyance (the Drana - Capt. P. Mason) summary inhibitions to be forwarded to the West Indies, there to be served on the captors &c. they are such as were obtained in cases where we waited for further information, but when not arriving in time from the omission of the Vice-admiralty Courts, - the Lords of Appeal allowed us to prosecute ~~an~~ appeals, - our defect of information notwithstanding - It would save expense if our agents in the West Indies were directed to forward copies of proceedings of these courts, only in cases where inhibitions are sent out.

I have the honor to be

Dear

Your most ob<sup>d</sup> hble serv<sup>t</sup>

Saml Bayard

Samuel Bayard March 1879

Samuel Bayard Esq<sup>r</sup> D<sup>r</sup> to Rot<sup>d</sup> Made.

168

List of Causes in which the Inhibitions have been extracted.

794	December	23.	The Harriet	Carpin Smith m <sup>r</sup>	1.	£ 20	-	-
795.	January	16.	Samson	Joshua Barney m <sup>r</sup>	2.	20	-	-
		22.	Polly	Jonathan Lister m <sup>r</sup>	3.	20	-	-
		"	Polly	Thomas Potter m <sup>r</sup>	4.	20	-	-
January		4	Laura	Peter Pond m <sup>r</sup>	5.	20	-	-
		6.	William	William Trow m <sup>r</sup>	6.	20	-	-
		"	Lady Washington	Ephraim Lombard m <sup>r</sup>	7.	20	-	-
		7	Two Brothers	Samuel Endicott m <sup>r</sup>	8.	20	-	-
		"	Three Friends	Andr Morris m <sup>r</sup>	9.	20	-	-
		21	Upequibo Packet	James Glover m <sup>r</sup>	10.	20	-	-
		"	Betsy	Abiel Hathaway m <sup>r</sup>	11.	20	-	-
		"	Nancy	Nath. Griffin m <sup>r</sup>	12.	20	-	-
		"	Roby	En <sup>d</sup> Bradish m <sup>r</sup>	13.	20	-	-
		"	Neptune	Caleb Green m <sup>r</sup>	14.	20	-	-
March		11.	Industry	Thomas Coppinger m <sup>r</sup>	15.	20	-	-
		"	Polly	En <sup>d</sup> Smith m <sup>r</sup>	16.	20	-	-
		"	Maria	T. G. Wain m <sup>r</sup>	17.	20	-	-
		"	Governor Johnston	Thomas Andrews m <sup>r</sup>	18.	20	-	-
January		21	Bethiah	J. J. Lowthrop m <sup>r</sup>	19.	20	-	-
		"	Hetty	En <sup>d</sup> Sullivan m <sup>r</sup>	20.	20	-	-
		"	Recovery	James Mitchell m <sup>r</sup>	21.	20	-	-
		"	Dove	John Hempsted m <sup>r</sup>	22.	20	-	-
		"	Nelly	Nath. Wattle m <sup>r</sup>	23.	20	-	-
		"	Martha & Mary	Cob. E. Mansbury m <sup>r</sup>	24.	20	-	-
		"	Charming Sally	R. Crowninshield m <sup>r</sup>	25.	20	-	-
		"	Friendship	Sam <sup>l</sup> Worsk m <sup>r</sup>	26.	20	-	-
		"	Richmond	Francis Dages m <sup>r</sup>	27.	20	-	-
		"	Betsy	P. T. Hocum m <sup>r</sup>	28.	20	-	-
		"	Dolly	J. Smith Clarke m <sup>r</sup>	29.	20	-	-
March		3.	Harrah	J. Bartlett m <sup>r</sup>	30.	20	-	-
		5.	Industry	Jos. Fook m <sup>r</sup>	31.	20	-	-
		"	Sally	Jack Birchmore m <sup>r</sup>	32.	20	-	-
		"	Delaware	James Art m <sup>r</sup>	33.	20	-	-
		"	Falmouth	James Tracy m <sup>r</sup>	34.	20	-	-
		"	Neptune	Hiram Rollins m <sup>r</sup>	35.	20	-	-

700

1795.			bro <sup>t</sup> forward	35.	£ 700 -
March	21.	The Toy	James Very	36.	20 -
"	"	Charlotte	Francis Mallaby	37.	20 -
"	"	Beaver	Nicholas Pearce	38.	20 -
April	2.	Commerce	Jon. Keall	39.	20 -
"	"	Sophia	Geo. Fryce	40.	20 -
"	"	Experiment	Step <sup>r</sup> . Crowbridge	41.	20 -
"	"	Nancy	Wm. Hsley	42.	20 -
30.	"	America	Tristram Gardner	43.	20 -
"	"	Billy	James Beckford	44.	20 -
"	"	Dove	Isaac Isaacs	45.	20 -
"	"	Friendship	James Codman	46.	20 -
"	"	Ranger	Charles Harrison	47.	20 -
"	"	Mahala	Eden Wadsworth	48.	20 -
"	"	Sally	Jonah Benton	49.	20 -
"	"	Hope	Obed. Baddock	50.	20 -
"	"	Betsy	Francis Young	51.	20 -
"	"	America	Webster Brown	52.	20 -
"	"	Whim	Josiah Orme	53.	20 -
"	"	Venus	Obed. Gardner	54.	20 -
"	"	Seaflower	Eli Brown	55.	20 -
June	1.	Sally	John Taylor	56.	20 -
"	"	Industry	Rob. Grozer	57.	20 -
"	"	Republican	Cha <sup>r</sup> . Herr	58.	20 -
"	"	Potomack	Rob. Chunn	59.	20 -
July	10.	Bacchus	Rob. Robbins	60.	20 -
"	"	Governor Clinton	Rich. C. Harris	61.	20 -
"	"	Two Brothers	Henry Prince	62.	20 -
"	"	Little Cherub	Joshua Waite	63.	20 -
"	18.	Polly	Sam <sup>l</sup> . Milbery	64.	20 -
"	"	Kate	Nath. Crocker	65.	20 -
"	"	Betsy	Jos. Starr	66.	20 -
"	"	Betsy	Benj. Spurr	67.	20 -
"	"	Hawke	Corn. Durham	68.	20 -
"	"	Speedwell	Aug. Ryan	69.	20 -
"	"	Jewell	Joseph Hubbertson	70.	20 -
"	"	Stork	John. Holland	71.	20 -
"	"	Jefferson	Rich. Almand	72.	20 -
Aug. <sup>t</sup>	2	Keptane	Matth. Daigre	73.	20 -
"	18	Margaret	Tho <sup>s</sup> . Tucker	74.	20 -
October	27.	Edward	Sol. Hotchkys	75.	20 -
December	16.	Ann	Joseph Marshall	76.	20 -
1796					
January		Harmony	Wm. Robinson	77.	20 -
					£ 1540

1795

January 29

The Dispatch

Adventure

Atlantic

Betsy

Betsy

Eagle

Freedom

Nancy

Sally

Theopatra

February 6

Bacchus

Bedford

12

Hope

Benedict

Dolly

June 15

John &amp; Joseph

Two Friends

24

Young James

July 2

Jefferson

27

Industry

Same

28

Hannah

Kitty

brought forward

77

1540 169

Barnabas Younger

Mr. Phillips

Mr. Marshall

Caleb Eddy

A. Davidson

Greg. Cowers

Robt. Burcham

J. Hathaway

Rich. Barker

J. Campbell

Rog. Robins

Bar. Hammond

Henry Bates

Joseph Dixon

J. Smith

James Haic

Sam. Williams

Bethuel Finkham

Elihu Morris

Francis Baxter

Wm. Hagg

Moses Brown

J. Rogers

2000

Causes set down for hearing

The Good Intent

Lydia

Jane

Betsy

Diligent

Hannah

Patty

Diding Sun

John

Atlanta

Eliza

Harriet &amp; Eliza

Peggy

Salome

Suker

Geo. Archer

James Capello

Tho. Lillibridge

J. H. Betterton

J. Cunningham

Paul Fort

Dax. Wilson

Tho. Wilkie

J. Pollard

Waterman

Tho. Lewis

And. Stucman

J. Lewis

Hugh Wapner

Ant. Andauille

101

102

103

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114

115

100

100

100

100

100

100

100

100

100

100

100

100

100

100

100

100

100

100

100

1795

		brought forward 115		\$3600
The Polly		Heman Smith m <sup>r</sup>	116	100
La Fayette		James Wyatt m <sup>r</sup>	117	100
Polly		J <sup>n</sup> Congden m <sup>r</sup>	118	100
Commerce		Isaiah Mafery m <sup>r</sup>	119	100
Charlotte		Sam. Fernald m <sup>r</sup>	120	100
Swallow		Joshua Forster m <sup>r</sup>	121	100
Hannah		Thos. Keuny m <sup>r</sup>	122	100
Eliza		Borrowdale m <sup>r</sup>	123	100
Trist		Rich. Peniston m <sup>r</sup>	124	100
Eliza		Borrowdale m <sup>r</sup>	125	100
London packet		Rich. Smith m <sup>r</sup>	126	100
Pomerset		W <sup>m</sup> Muller m <sup>r</sup>	127	100

## Causes already heard

1796

Febr. 20	The Farmer	Da. Osborn m <sup>r</sup> taxed at \$217	128	12
	Harriet	Geo. Calder m <sup>r</sup> taxed at \$247	129	8
	exaucy	David Florence m <sup>r</sup> taxed at	130	239. 1.
	Sally	Patrick Hayes m <sup>r</sup> taxed at	131	236. 15.
	Sally	Ebenezer Choate m <sup>r</sup> taxed at	132	208. 19.
	Sally	ex <sup>m</sup> Hefo m <sup>r</sup> taxed at	133	259. 7.

## Causes abandoned or otherwise ended

The York	Thomas O'Brien m <sup>r</sup>	134	30m. 9
Betsy	Sam. Chase m <sup>r</sup>	135	15. 13.
Dolphin	And. Shankland m <sup>r</sup>	136	15. 13.
Susannah	Rob: Lillibridge m <sup>r</sup>	137	14. 9
Murcians	ex <sup>m</sup> Perry m <sup>r</sup>	138	14. 9
George Washington	W <sup>m</sup> Mason m <sup>r</sup>	139	20. 2
Polly	F. Hamilton m <sup>r</sup>	140	18. 9
Mary	Ja <sup>s</sup> Buchanan m <sup>r</sup>	141	16. 9

## Received of Mr. Bayard

\$6283. 0

1795 1796

May 16	By Cash on order on Mess <sup>rs</sup> Bird & Co	\$500	
Sept. 15	By ditto	700	
Febr. 17	By ditto	500	1700
Aug. 20	By do	150	
Oct. 1		600	2450

State  
of the American Appeals under the direction of  
Mess<sup>rs</sup> C. & P. Lounley. in May 1796.

Fanny	Moit
Union	Warner
Swallow	Fitch
Ceres	Taylor
Lucy	Brown
Commerce	Bouton
Hirem	Stocking
Nancy	Green
Betsy	Freeman
Sally	Gray
Claripa	Whittridge
Polly	Goodhue
Swan	Mawhs
Friendship	Hubbell
Olive Branch	Leuvenigh

Appearances have been given  
for the Captors & the Masters  
wait the Receipt of the Proceps  
from the different West-India  
Islands, the libels having been given  
in each Case, except in the Hirem  
in which case the Captors Doctor  
stands assigned to extend his  
Protest, he having appeared  
under Protest.

# Philadelphia Packet

Chance	Smith
Vassalborough	Porter
Rachel	Lee
Success	Bennet
Lydia	Forster
Neuter	Lovell
Lyon	Morris
Lucy	Grant
America	Smith
William	Richmond
Priscilla	Smith
Margaret	Dalton
Sally	Tilton
Mathea	Sprague
Tryall	Baker
Hope	Farley
Resolution	Burkingham
Phoenix	Harlow

No appearances are yet given, for the Captors, & the inhibitions which have been sent over to the West Indies for the purpose of personally serving them, as well as of procuring from the Vice-Admiralty Courts the Proseses in each Case, are not yet returned.

Ranger	.....	Grove
Succep	.....	Holmes
Neptune	.....	Staples
Aguis	.....	Cox
Nancy	.....	Hill
Dolphin	.....	Ashby
Peggy	.....	Forrester
Rachel	.....	Robinson
Swan	.....	Milliken
Swift	.....	Butler
Susannah	.....	Mony
Charlotte	.....	Hughes
Venus	.....	Butler
Patty	.....	Pond

July 14<sup>th</sup> 1906

increased in size

Spolto	S.B. - Hampsted
Inn	Weight
Betsey	Burr
Betsey	Brown
Bedford	Chipman
Three Brothers	Edgerton
Bayonne	Lawton
Betsy	Frefelthen
Betsy	Baulkins
Columbus	Trevitt
Chance	Earl
Cloe	Lord
Dolphin	Graves
Mary & Elizabeth	Latimer
Friendship	Pate
Flora	Babson Junr
Friendship	Downe
Tox	Himball
George	
Harriet	Brocke
Illinois	Robson
Nancy	Shapley
Nancy	Ingersolls
Polly	Knight
Polly	Lindsay

Bolly	Augustoll
Ranger	Clark
Rachel	Duff
Sally	Edger
Sally	Noyes
Two Sisters	Calvert
Sally	Cochran
Salem Packet	Nery
Union	Cottle
Success	Regrd
Roebuck	Wharf

Messrs. Frickitt & Townly present their compl<sup>ts</sup>  
 to M<sup>r</sup>. Bayard, & herewith return him the papers in the  
 above 36 cases (referred to Min. & c. Negotiation) with an  
 abstract of the facts collected therefor on agreeable to his des<sup>t</sup>

Harriet	Kennedy
Hannah	Cushing
Sea Flower	
Linnet	Wellington
Harriet	Campbell
Margaret	Hemp
Maria	Propter

Messrs. C. & T. also return M<sup>r</sup>. Bayard  
 the Papers in the above Cases with the best abstract they  
 have been able to make, such papers being generally without  
 any estimate of Loss, & in other respect deficient of infor-  
 mation.

C. & T. will furnish M<sup>r</sup>. Bayard with the  
 remaining 5 following Cases to morrow or Saturday.

Susanna . . . . .	Lewis
Succeps . . . . .	Curry
Eleven Sons . . . . .	M <sup>c</sup> . Intire
Fryal . . . . .	Boyle and
Susanna . . . . .	Mory.

Handwritten signature or initials at the top of the page.

The papers in the above case with the last address have been able to make, and papers of a general nature are contained of the 1st of the other papers of the nature mentioned.

Remaining 2 following books is mentioned in the list of books  
Lectures  
Lectures  
Lectures  
Lectures  
Lectures

Handwritten text at the bottom of the page.

The Secretary of State

London 3<sup>rd</sup> May 1796. 174

Sir,

The last letter I had the honor to receive from you is dated the 6<sup>th</sup> Nov<sup>r</sup> 1795. I look with much anxiety for your next dispatches which will contain answers to the various matters of importance contained in the different letters that I have address'd you since Dec<sup>r</sup> last.

It is with great pleasure that I inform you of Doct<sup>r</sup> Nicholl's having been named as one of the Commissioners on the part of this Country agreeably to the provision of the late Treaty between the United States & Great Britain. There is no man I have met with since my residence here, of whose justice, impartiality, talents & experience I have a higher opinion.

Since I last had the honor to write you, the Lords of appeal have met twice & heard & determined our case at each sitting, but neither of the cases involves any question of law. I now anxiously look for the return of the different Inhibitions & long since sent out by conveyances to Philadelphia. Until the return of these, nothing can be done in the several <sup>cases</sup> in which they were issued, & unless they are soon returned the business so far as regards these cases, will be wholly at a stand for the present, & the final decision of them may be greatly retarded.

Inclosed is a duplicate of my letter to M<sup>r</sup>. Pinckney of the 14<sup>th</sup> March - to yourself of the 18<sup>th</sup> & a list of the Martinique cases sent by the last conveyance.

I have the honor to be  
with great respect & esteem

Sir, your obedient servant

Sam<sup>l</sup> Bayard

The Secretary of State

London 17 May 1796.

Sir

I have the honor to receive this day by the Ariel via New York the duplicate of yours of the 2<sup>d</sup> April. The money you have remitted to M<sup>r</sup>. Pinckney arrives very opportunely. Money at this time is an article more in demand here than usual, & the house of Bird Savage & Bird. are at present I believe in advance for the U. S.

Since the date of my last (a dupl. of which is inclosed) only two American cases have been determined by the Court of Appeals. In the latter of which (The Sally - E. Choate M<sup>r</sup>.) the principle on which the orders of the 6 Nov<sup>r</sup> were issued, was again discussed contrary to all expectation. The Court availed themselves of this opportunity to state their opinion on the subject clearly. altho' it is very unusual for this board to give the reasons of ~~the~~ judgments, yet the L<sup>d</sup>. President remarked as this was a point of considerable importance he would mention what were the grounds of his opinion. - He held that the principle on which G. B. has issued these orders of the 6 Nov<sup>r</sup>, was supported by the best writers on the laws of nations, & referred to Bynkershoek as his authority - that independently of those orders, under the circumstances attending the commencement of the present war, the British Cruisers were authorized to seize & bring in for examination all Vessels of neutrals trading to the French West Indies in time of war, otherwise than they had been allowed to do in time of peace - that altho' the British Gov<sup>t</sup> had thought proper to revoke these & to issue the subsequent instructions of the 8 Jan<sup>y</sup> 1796, yet as this step resulted, (& very partly) from a spirit of concession to America, it did not follow that the first orders were contrary to the laws of nations - that the right to seize did not imply the right to condemn & therefore that all property condemned in virtue of the orders of the 6 Nov<sup>r</sup> without other just cause of condemnation appearing in the proceedings, would be restored, tho' without costs or damages. But where it appeared that seizure & condemnations of American Vessels had taken place under colour of these orders after the revocation of them by those of the 8<sup>th</sup> Jan<sup>y</sup> was known - that they would restore & allow the claimant full costs & damages. - On this decision I will only observe that American will hardly acquiesce in it as grounded on the Law of nations - However & right it may be for a British Prize Court, to absolve Captors from

payment of costs & Damages, for seizure & condemnations made under orders issued by the British Government; yet as the Citizens of the U. States have sustained heavy losses - losses as we contend & believe contrary to the clear acknowledged law of Nations, we must seek that redress from a Board composed <sup>from both Nations</sup> from both Nations, which we cannot fully obtain from a British Court of Appeals.

Public rumour states that a change is shortly to take place at this Tribunal - a change however that will not operate in our favour, not yet probably to our prejudice. It is said that Lord Hawksbury is to succeed Lord Mansfield as President of the King's Council - & consequently of the High Court of appeals. There were no causes heard before this Board on Saturday last, nor will any be heard on Saturday next, on acct. of the Whitsuntide Holy days.

I lament that the business under my care progresses so slowly. When the Treaty however is in full operation (& I trust, it will meet with no obstruction on our part) things may possibly go on better.

I learned with much pleasure from the Registrar, a few days since, that the Lords of Appeals intended, when they had settled a few important points in some leading cases, not to hear any cases argued that came within the principle of those already decided, unless some point of distinction was clearly established.

Inclosed I send you the state of the appeals under the direction of Messrs Crickitt & Townley - By this you will see in how many cases we have obtained appearances, & only wait for the copies of proceedings from the West Indies, to bring them to a hearing -

I have the honour to be with  
Sincere respect & esteem

Sir, your obedient servant

Saml Bayard

May 3rd 1916

## Prize appeals

Before the Lords Commissioners of appeals in Prize  
Cases - At the Cockpit - May 7<sup>th</sup> 1796

Present  
Lord President  
Master of the Rolls  
Lord Auckland  
Sir Wm Wynne  
Sir Grey Cooper

## The Sally, Ibmerz Cheate Master

The said Ibmerz Cheate Claimant of Ship  
& Cargo for american Citizens the Owners thereof,  
Appellant &

Louis Rouzel Comm<sup>d</sup> of the private  
Ship of war Brilliant, the Captor  
Respondant.

On an appeal from the High Court of Admiralty  
of England.

The material & undisputed facts in this case were as follow -

The Vessel & Cargo were the property of Mess<sup>rs</sup> Johnson  
& other Citizens of the United States of America, resident at Newbury Port,  
Massachusetts, on whose behalf they were claimed - The Cargo consisted  
principally of sugar, the produce of the French West India Islands, shipped  
at Newbury Port, Cape Ann & Boston, all Ports of the U.S. & consigned to  
the Master to be sold on account of the Owners in Europe - The Vessel  
sailed from Boston on the 21<sup>st</sup> Dec<sup>r</sup> 1793 bound to Bordeaux, & the Master  
was directed by a letter of Instructions from his Owners found on board,  
to dispose of his Cargo by the help of certain merchants there, to invest the  
proceeds

proceeds in the purchase of such produce & manufactures of France as were most suitable to the West India Market, with which he was to proceed - Point-à-Pitre in Guadeloupe, there to sell such cargo, to reinvest the value in a Cargo of West India produce & return thence to Neobour Fort. ~ In a postscript to this Letter it was added, that if he found Bourdeaux besieged & could not get admission there, he might proceed to Amsterdam or to the best market he could hear of, notwithstanding the preceding Orders.

When the Vessel arrived on the Coast of France, she met with contrary winds, & was obliged on the 21<sup>st</sup> Nov<sup>r</sup> to put into Lochelle roads, where the Master heard that Bourdeaux was at the time in a critical State, that the Market there for his Cargo was bad & the exportation of goods from thence prohibited. ~ He therefore determined to go to Amsterdam, & was steering his course for that Port, when on the 24<sup>th</sup> November in Lat. 46° 53' N. he was met with & taken as Prize by the Brilliant.

The Captor notwithstanding due explanations, carried the Vessel into Guernsey & prosecuted both her & Cargo as prize in the High Court of Admiralty. ~ On the 11<sup>th</sup> Jan<sup>y</sup> 1794 the Master put in his claim, & on the 13 March following restitution of Vessel & Cargo was decreed by the Judge of that Court, reserving the question as to just Cause of Seizure & Captors expenses, & also the consideration of the Claimants Costs, Damages & Demurrage. ~ The Vessel had sustained considerable damage by a transport running foul of her, but this was not imputed to any neglect or misconduct on the part of the Captors. ~ On the 23<sup>rd</sup> July 1794, the Judge decided on the points reserved, pronouncing that there was just Cause of Seizure but not allowing the Captor his expenses: & rejecting the Claimants demand of Costs, Damages & Demurrage.

From this decision the Claimant appealed, & the Captor adhered to the appeal for his expenses. The reasons assigned by the appellant in his printed Case, were,

1.<sup>st</sup> Because the Ship & Cargo appeared evidently by the proof tendered to the Captors at the time of the Capture, to be the property of American Subjects, & to be then engaged in a Voyage perfectly fair & legal.

2.<sup>d</sup> Because the Ship's Papers & Examinations both concur in establishing the neutral property of the Ship & Cargo in a way so satisfactory as to have entitled the Master to immediate Restoration, with payment of his Costs, Damages & Demurrage.

The Respondents printed Reasons were  
Because under the Circumstances of the Case, the Seizure was fully justified, & those circumstances were such as further to entitle the Captors to his expenses.

V.B. The Respondent in his printed Case set forth & insisted on the benefit of the King's Instructions to the Commanders of His Majesty's Ships & Privateers of the 6<sup>th</sup> Nov. 1793. He stated also some deficiencies in the proper Ship's papers at the time of the seizure, & some considerable circumstances in the evidence tending to support a suspicion that the Vessel was bound to France, instead of Amsterdam; & that some part of the Cargo belonged to a French Passenger on Board. But as these circumstances were not insisted upon in argument, & were of no weight when opposed to the strong positive evidence of the property & destination, being as within stated, it is unnecessary to state them.

Sir W. Scott, King's Advocate for Respondents

This Capture was made on the ground of the Vessel having on Board produce of the French Colonies with which it admitted she was originally bound to France, & the Intention was to take a return Cargo of French produce or manufactures to the Island of Guadaloupe, a species of trade permitted to no Foreign Nation by the permanent commercial System of France in times of peace, & the Carrying on such trades by neutrals in time of war was in a multitude of cases that occurred during the war

war of 1736 considered as a violation of the duties of Neutrality, & Cause not only of Seizure but Condemnation. ~ Even the Intention of going to the French Islands for the purpose of such trade, was then held to be sufficient ground to Condemn. ~ Such was the Law of Nations, as laid down by the repeated decisions of this Board, at a period when men of the most distinguished talents officiated here, as Judges in Prize Causes, & who Sir Wm. Blackstone speaks of its decisions in terms of high eulogium, as being universally admired for their wisdom & Justice.

It has been alledged that in the late war a different Rule was adopted by the British Admiralty with regard to the trade in question & that Neutrals were permitted to carry it on with impunity. ~ But this is a misconception for the Cases were, or at least were understood to be different. It was never disputed that a foreign Nation might alter its Commercial System, if it thought fit so to do, & that Neutral Nations may avail themselves of the Trade opened to them by the new System of a Nation at Enmity with us, provided the change is bona fide, intended to be a permanent one, & not a mere temporary expedient to relieve the Enemy during the war from the distresses our hostilities have reduced him to.

The Licences given to Neutral Vessels to trade at the French Islands during the war of 1736 were clearly of the latter Description & those Vessels with their Cargoes were therefore condemned. ~ They were considered as adopted French Vessels. ~ In the Course of the last war the French again had recourse to the same remedy for the inconveniences our maritime exertions exposed them to, but in a different way. ~ They did not as before, give special licences to particular Vessels pro hac vice, but opened the trade of their Colonies to all Neutral Vessels by a general Rule. ~ On the ground of this distinction therefore, it was argued on behalf of Claimants of Neutral Vessels taken in that trade, that the Enemy had changed his whole Commercial System, which he had an indubitable right to do, & this Court on that Ground acquitted.

Matter of the Drolls ~ "But did the Court in those Cases restore with Damages & Costs?"

Sir Wm. Scott ~ "No, not in a single Instance."

It had since appeared that this ground of Decision was delusive, for as soon as Peace was made, France returned again to her former commercial System, excluding all Foreign Vessels as before from the trade of her Colonies.

Under these Circumstances the Captors of the Vessel in question were not only justified in taking, bringing in & prosecuting the Vessel & Cargo, but were bound by the Duties their Commission imposed upon them, to do so. The ground of acquittal in the last war had been proved to be fallacious, therefore untill the rule was pronounced in the present one, it was reasonable to conclude that the British Admiralty adhering to the rule of the law of Nations as acted upon in the war of 1756, would condemn in such cases; & it would have been criminal presumption in the Captors to take upon themselves to decide the contrary, by releasing Vessels with Cargoes of this description on board without bringing them into Port. ~ Tho' the Instruction of the 6<sup>th</sup> Nov. is revoked that of the 8<sup>th</sup> January 1794 is still in force, & applies to the case of this Vessel. ~ It will hardly be maintained that that Instruction is not agreeable to the Law of Nations. ~ It is to be regretted therefore that the property in this case was restored with so much facility.

#### Mr. Dallas on the same Side

The only Question is whether the Captors had just cause of seizure for if it is contrary they cannot be liable to damages & costs. (He then proceeded to argue from the evidence, that there was reasonable cause to suspect there was French property on board; but as no notice was taken of this in the subsequent arguments or the Decision of the Court, that part of Mr. Dallas's argument is omitted.)

It will perhaps be contended here that the Instruction of the 6<sup>th</sup> Nov. could not be known to the Captors at the time this Vessel was seized; but that is immaterial. ~ The Instruction had in fact issued at the time, & they were intitled to protection in acting pursuant to it, tho' unknown. ~ Besides it will hardly be contended that the Instruction was intended to introduce a new Rule militating against the General Law of Nations. ~ It was rather Declaratory of what that Law was; in the apprehension of those who formed the Instruction; & if such was the opinion of persons in exalted situations & of distinguished

distinguished Knowledge & Talents; it is certainly enough to excuse the Captors for bringing the Question before the Court of Admiralty, by carrying in & prosecuting this Vessel.

M. H. Hardinge for the Appellant

The Instruction has by no means declared the Law of Nations to be that the Ship & goods are confiscable; neither could the Captors be political enough to foresee, that such an order would be issued.

(On a Question as to dates it was agreed on the part of the Appellant & apparently admitted on the other side, that the Instruction of Nov. 6<sup>th</sup> was not sent down to the Admiralty Office, or delivered to Privateers, till a considerable time after its Date.)

Doctor Laurence on the same Side

It is a very delicate Question whether the King's Instructions can be considered as binding the Court of Admiralty in respect of the Rule of Adjudication. The Rule of the war of 1756 was "that Vessels having produce of the French Colonies on board laden there or transhipped were liable to seizure & confiscation." (On a question to the King's Advocate whether this was not correctly the rule as stated by him, he did not seem to admit that it was.) I deny it to be the principle of this rule, that a Nation has not a right to open a commerce to neutrals in time of war that is not allowed in time of peace. The cases of the war of 1756 have been properly called Cases of adopted Ships, they were Dutch Ships. He was proceeding to show that there were peculiar marks to affect Ships of that Nation, founded on our Treaties with the Dutch, & their conduct in the war, when Sir W. Wynne observed "that the Dutch Vessels were the first to which the rule in question was applied, many Danes & Swedes were afterward condemned for the same cause."

This Doct. Laurence admitted to be true.

Manner of the Rolls & When did those Questions first come before the Board?

Sir W. Wynne in the year 1768.

Doctor

Doctor Lawrence ~ The Vessels of whatever nation that were so condemned had particular licences to trade at The French Colonies, & were therefore considered as French Ships ~ upon no other principle could the confiscation, as I conceive, have extended to the Vessel as well as to the Cargo ~ The French I admit after they found that such Vessels were condemned here, gave them during the same war a general licence, which did not protect them from forfeiture, because it was reasonably considered as a mere evasion ~ The Class of Cases in that war, that comes nearest to the present case were those of Vessels from Monte-Christi (a Spanish Settlement in St. Domingo, which was then neutral; the Spaniards not having at that time engaged in the war) ~ The produce of French Sett<sup>mts</sup> in St. Domingo was cleared out from that Port in Neutral Vessels, many of which were captured. In those Cases whenever it appeared that the produce was taken on board at Monte-Christi the Vessels & Cargoes were removed, except it was proved that the Super-Cargo or Captain had any connection with Cape Francois

Court ~ Where the Cargo was taken in at Monte-Christi. It was supposed to be Spanish produce or at least that it might be so; but there never was an acquittal in such cases where the produce appeared to be French

Doct. Lawrence ~ This Vessel & Cargo are free from all the circumstances that induced confiscation in 1756. She had no special licence, the Cargo was shipped in a Port of the U.S., purchased, as the Captain swears, in the American Market. She was coming from her own Port, & had not been at any French Colony. The French have now opened the Ports of their Islands in the West-Indies to Neutral Nations generally, which was not the case in the war of 1756 ~ But as it is admitted that by the Rules that have prevailed in the two last wars, French Colony Produce in Neutral Vessels is under some circumstances cause of condemnation, & under other circumstances is not so; it would be too much to say that Captors may in all Cases where they find such produce on board, bring in & prosecute the Vessel & Cargo with impunity.

It was said by the King's Advocate that able Persons presided at this Board in the war before last & were none of those able Persons now left? or were there no able Persons here during the last war? Opinions & decisions at different periods should be reconciled if possible, not set up in opposition

opposition to each other & There were cases that arose in the last war decided here after the discovery that the French had reverted to their former commercial system in their Colonies, & yet the Court adhered to the rule of acquittal.

Master of the Rolls ~ That might have been from a principle of Justice, to the neutrals who had relied upon the latter decisions.

Doctor Lawrence ~ If so, still it proves that this Court did not act on the principle contended for on the other side.

The Colonial System of Europe has been much changed, since the war of 1756 ~ The Ports have been opened by Great Britain herself, & by other Powers in the West-Indies, & France especially since the commencement of her Revolution has gone further with a view to court the favor of the U. S. of America, than ever she went before, in relaxing her commercial restrictions. ~ I have seen a report made to the National Assembly in 1789 wherein it was stated that a great part of the Colonial Trade was carried on in American Shipping ~ In this very case the Master swears that the Ports in the French Islands were opened to Vessels of his Nation before the war.

The Captain, if he speculates in cases of this kind, should do so at his peril ~ he ought rather to govern his conduct by the latter than the former of two opposite Claps & decisions, if they were opposite, but that in the present Instances, I deny to have been the fact ~ They were perfectly consistent, but founded upon different Circumstances which in the one Clap of Cases led to condemnation in the other to acquittal ~ The Captain therefore should be bound at his peril to prove that the Case in which he was seized is attended with those circumstances in which this Court at a former period condemned. ~ He saw that it was a voyage from America, & he had no right to look back into any antecedent voyage the Vessel had made, but in all the former cases in which condemnation took place the produce was either going directly from the Colonies of France, to the Mother Country, or was trans-shipped at sea, or in a Colonial Port, or there was an evident connection by the Super-cargo or otherwise with the French Islands.

Court ~ "Does it appear in this case that the produce was brought to America in the same Vessel from the West-Indies?"

Doctor Lawrence ~ The Master swears that he took in the Cargo from the Shore at Newbury.

Court ~ It appears however that it had been brought by the present

present Owners in the French Colony, & imported from thence by them.

Master of the Rolls - It still remains to be settled whether a trade from the French Colonies to Europe, in neutral Vessels is allowable, -

Doctor Lawrence - "Certainly - But this is a case in which even by the terms of the Instruction of the 8 January the Capture ought not to have been made. The Vessel was coming from America & had turned her back on the French Port, she was originally bound to, & was steering for Amsterdam."

Allowing even that the Capture was justifiable in the Surge, he was not so in Detention; he detained & prosecuted her till March, tho' the Instruction revoking that of the 6<sup>th</sup> Nov. issued early in Jan<sup>y</sup>. - Here Sir W<sup>m</sup> Scott observed that their Lordships had already decided this point in the Case of the Sally - Hayes.

Doctor Lawrence, No; this point was not decided - for that Case arose in the West Indies, & it did not appear that notice of the revoking Instruction had arrived there, at any time prior to the sentence.

Court - "Certainly you are not concluded by that Case from arguing in this that the Vessel ought to have been given up."

The Lord President here mentioned the case of Cromwell's Treaty, whereby he agreed that no Goods should be esteemed Contraband. & asked - Suppose a Vessel laden with Contraband Goods had been taken & brought in before that Treaty, ought she not to have been condemned?

Doctor Lawrence, Yes - But in that case there would have been a clear Cause, of forfeiture by the Law of Nations, antecedent to the Treaty. Here we contend that the Law of Nations was not against us.

Sir W<sup>m</sup> Scott in Reply.

Nothing could be more remote from my Intention than the drawing invidious Comparisons between the decisions of this Board, at different periods. - I only remarked that at the period when the decisions I referred to took place, the Constitution of the Board & its decisions gave, according to Sir W<sup>m</sup> Blackstone, Satisfaction to all Europe.

\* Doct<sup>r</sup> Lawrence is right as to the fact; yet it was argued as broadly as Sir W<sup>m</sup> Scott here stated it, & the Court chiefly inclined in that Case, to think, that the Capture would have been justified in prosecuting to Judgment, supposing the revoking Instruction to have been known at Bermuda, where the case arose, pending prosecution.

If the Rule in Question arose as has been contended, from the principle of adopted Ships, it afterwards out-grew that principle; & your Lordships must resort to another, to account for the condemnations that took place in Cases where the Vessels had no particular Licence. ~ The true reason of those decisions was that a Neutral cannot without grossly transgressing the duties of Neutrality interfere to relieve the Enemy from the distress to which your arms have reduced him."

It will appear from Bynkershoek & all other writers on the law of Nations, that the greatest extent of the Rights of Neutrals in time of war is "that they shall in no respect suffer by the war to which they are not parties; but enjoy their former commerce unmolested." ~ It is no part of those rights to have new branches of Commerce opened to them out of the distresses of the Enemy.

To prohibit this, is justifiable on the same principle upon which you restrain Neutrals from supplying a besieged or blockaded Place with provisions: for in both Cases to relieve the Enemy from the distress or inconvenience your arms have reduced him <sup>to</sup> is in effect to take a part against you in his favor. ~ It is a *hosti imminenti eripere hostem* ~ It is <sup>to</sup> raise him from the ground on which your force has thrown him, that he may be enabled to continue the combat.

The Rule I contend for is equally clear upon precedents, notwithstanding what has been urged to the contrary. ~ In all the Cases, whenever it was apparent that the Enemy had exercised any act of authority to permit the particular Trade in Question contrary to former Regulations, the property was condemned. ~ The Rule was by no means repealed or departed from in the last war, but a variation arose upon the rule itself from a change of circumstances.

The French prior to the declaration of Hostilities had issued a Protestation or public Notice, that they had changed their colonial System & opened the Ports of their West-India Islands to foreign Vessels. The Question then arose only was, whether it was a relaxation produced by a desire to prevent the Inconveniences of war, & meant only to exist during the war, or a permanent Relaxation, & this Court after the proclamation thought itself not at liberty to conclude that the former only was the Intention.

The probability perhaps was on that side, but the fact might be otherwise, & a different Intention had been publicly declared. ~ But the Conduct of France at the close of the war, put an end to all doubt on this Subject. She returned to all the strictness of her former System, & it was

a public

a public & notorious ground of complaint by America, & the Neutral Powers, that they were excluded from all the advantages the permanence of which they had been encouraged to expect.

Court "What has been done by France on the subject since last period?"

Sir now Scott - Some free ports have been opened but under various restrictions, both as to the descriptions of foreign vessels to be admitted, & a species of commodities to be imported & exported in such vessels. There has been nothing at all approaching to a general right of trade, prior to this war - All the privileges granted by France to America by Treaty consisted only of Liberty to bring to their Islands provisions & timber & to carry from thence, Molasses, Taffia & Coffee.

I admit indeed that a very short time before the war, Proclamations were issued per Persons exercising an usurped or at best a doubtful authority, that made the permission of trade to Foreigners more general - But the acts of the various persons & Factions that successively usurped the Power of Legislation in the French Colonies, are surely not to be taken as clear & valid repeals of the old established System of France; much less as permanent Regulations.

It is true, that the Americans & other Neutrals, rushed with avidity to seize the advantages of a Commerce opened to them by this dubious authority. But will you require of Captors under such circumstances to pronounce, for themselves & their Country, when they find French Colony produce on board a Neutral vessel, that an authority so very questionable, was certainly legitimate, & had duly licensed a trade which was contrary even to the terms of the subsisting Treaty between the Nation of the captured vessel & France. Could they answer to renounce their own right & the right of their Country on such premises? Certainly not - They were also well warranted in what they had done in this case by the Royal Instruction of 6. 8. 93.

From the time a Royal Instruction issues, Captors acting pursuant to it have a right to refer to it for their protection. It is from that moment the law as to them - they are bound to obey it. & it would be grossly hard & inequitable to oblige them to prove that prior to the capture, the Instructions actually came to their hands.

As the Captor here was justified by the Instruction, & even without its aid, in bringing the vessel into port, so was he in detaining & prosecuting her.

The Instruction it is true, was revoked by that of Jan<sup>y</sup>. but it surely was not within the Captors competency to decide, whether this new Rule, was to be prospective only, or whether it was also to have a retrospective operation, so as to discharge captures already made.

It was natural for him, if he ventured to conjecture, rather to suppose the former. But it was clearly proper in him to call upon the Court to decide that Question. On the whole therefore Sir W.<sup>m</sup> submitted to the Court that the Captors conduct was both ~~unbecom~~ & meritorious, & as there was an adjournment for his costs, he hoped their Lordships would allow him not only those of this appeal, but of the proceedings in the Court below.

The Counsel as usual desired to withdraw, & on their being called in again, the Lord Justice said he wished before the sentence of the Court was read, to say a few words ~~con~~ upon of his own particular Ideas on the case as one member of the Board.

The Case has continued, has been argued in the fullest, & to my apprehension in the most satisfactory manner by the King's Advocate, & I can add nothing from myself to his argument, in which I entirely concur. But there is a Book of authority to which I wished to refer, & sent for during the argument, but it could not be immediately found. It is Bynkershoek in that Chapter of his work entitled "On the state of Neutrals in time of war". He writes in Latin & I cannot quote his words; but Sir W.<sup>m</sup> Wynne has assisted my memory as to the import of the passage I wanted to cite. The author uses the form of a Dialogue, & a Neutral is supposed to be putting questions to his Right & Duties, & receiving the solution of them. Among others he is made to ask "What am I entitled to do?" & the answer is: "Every thing during the war that you was entitled to do previous to the war." The author then, according to his general manner first laying down the rule, & afterwards stating the exceptions, mentions the exceptions of contraband, of besieged places & the like, & afterwards proceeds to say "you are not to open any new trade, or explore any new advantages arising out of the war which to one of the Belligerent Parties are disadvantageous." He adds a general Rule. "Si mediis vim non populum ita unum prodesse ut alteri noceam."

For having the author to refer to (the Book I understand is not to be bought in London) I cannot answer for correctly following the words as cited by the Lord Justice nor indeed do I pretend to give his Lordships speech verbatim, tho' given in the first person, but the substance is correct.

P. B.

This Authority certainly confirms very strongly the Doctrine of the King's Advocate as to the Law of Nations, & upon the general abstract principle, I give it as my clear opinion, that this seizure would have been warrantable & would have led justly to condemnation. If the Instructions have never existed; Supposing the case to be decided upon the general Law of Nations, the Court in making the exception during the last war acted consistently with Bynkershoek's principle; on account of the general Declaration made by France, of the change in her commercial System prior to the commencement of hostilities. But France has done nothing of this kind now; & it has appeared that the avowed change of System in the former case was a mere pretence. *omitted I & omitted and not equal to*

I therefore consider the last Instruction, & the Rule of Decision that has been laid down in the cases of American Vessels, as matter of absolute favor to the Americans; a favor certainly conferred very properly, but to be regarded in that point of view only. It is upon these principles that I have concurred in the sentence that will now be read. The latter part of it is founded on the improper conduct of the Claimant in persevering so far as to come here, after the Decision of the Court below.

The Sentence was then read, by which their Lordships affirmed the Decree complained of, & condemned the appellant to pay Costs of the appeal to the Respondent.

The Master of the Rolls afterwards expressed his satisfaction "that the general Question in the case had been so fully argued, & so clearly decided upon, & in a strong manner called the attention of the Gentlemen of the Bar & the Proctors, to the nature of the precedent just established as to the Costs. He understood there were many other appeals for damages & Costs now depending on the same ground, but hoped the Gentlemen would now advise their Clients, not to bring such Cases before the Court, for if they came there, it must be expected that the appellant as in this case, would be punished with paying Costs for such vexation, more specially after the sentence of the Court was so fully known. Such would certainly be the rule as to Vessels seized under the 6<sup>th</sup> Nov. Instruction, from the time it issued, untill its Revocation by the order of Jan<sup>y</sup> 6<sup>th</sup> was known to the Captors. On the other hand, if the Captors would come there to support Sentences of condemnation given after notice of the revoking Instruction, he had no doubt the Court would with an equal hand

Subject them to Costs for so doing. He said he understood some of the  
County abroad still condemned under the Instruction of Nov. 17, & was pro-  
ceeding to reprobate such conduct, when the King's Advocate assured him  
he believed the Report was erroneous. Such Conduct had only been im-  
puted to one Judge (the Judge of Bermuda) & from him he had received  
satisfactory explanations to prove the imputation was groundless, I was  
ready to defend him when attacked.

The Master of the Rolls concluded by again expressing  
his hope, that both Captors & Claimants would take due notice of that day

Decision  
The Master of the Rolls considered the law in relation to the rule of the  
Court in the case of execution of a writ, as a matter of course, but he  
to the Chancellor, a favor certainly conferred upon property, but to be regarded  
in that point of view only. He is upon these principles that I have concerned  
in the sentence that will now be read. The latter part of it is founded on the  
improper conduct of the Claimant in forwarding to the Court a copy of the  
the opinion of the Court below.

The sentence was then read, by which their Lordships  
affirmed the decree complained of, & condemned the appellant to pay Costs  
of the appeal to the Respondent.

The Master of the Rolls afterwards expressed his satisfaction  
that the general principle in the case had been fully argued & is clearly  
decided upon, & in a strong manner called the attention of the Gentlemen of  
the Bar & the Masters to the nature of the process just established as to the  
costs. He understood there were many other appeals for damages & costs now  
depending on the same ground, but hoped the Gentlemen would now advise their  
clients not to bring such Cases before the Court, for if they come there it must  
be expected that the appellants as in this case would be furnished with paying  
Costs for such taxation, more especially after the sentence of the Court was so fully  
known. It would certainly be the rule as to refuse orders under the  
Court's instruction from the time it issued, until a declaration of the order of  
the Court is given to the Captors. On the other hand, if the Captors  
would come there to support demands of condemnation given after service of  
the writ of Habeas Corpus, he had no doubt the Court would with an equal hand

183

copy of the New South  
of the New South.

Second Examined,

David Brent.

The Secretary of State. London 17. May 1798.  
184

Sir

I had the honor to receive this day by the arrival via New York. the duplicate of your letter of the 2<sup>nd</sup> April. The money you have remitted to Mr Puckney arrives very opportunely. <sup>at this time</sup> Money, is an article more in demand here than usual; & the House of Bond Savages & Birds are at present I believe in advance for the U. States.

Since the date of my last (a dup. of which is enclosed) only two American cases have been determined by the Court of Appeals. In the latter of which (the Sally - E. Choate No.) the principle on which the orders of the 6 Nov<sup>r</sup> 1793. were issued, was again discussed contrary to all expectation. The Court availed themselves of this opportunity to state their opinion on the subject clearly. Although it is very unusual for this board to give the reasons of their judgments yet the P<sup>r</sup> President remarked as this was a point of considerable importance he would give mention what were the grounds of his opinion

He held that the principle on which G. Britain  
had issued these orders of the 6 Nov. was supported  
by the best writers on the law of nations. He referred  
to Bynkershoek as his authority. — <sup>independently of these orders —</sup> that, under the  
circumstances attending the commencement of the  
present war, the British cruises were authorized to  
seize & bring in for examination all vessels of  
neutrals trading to the French West Indies in time  
of war otherwise than they <sup>had</sup> been allowed to do in  
time of peace — that altho' the British Govt. had  
thought proper to revoke these & to issue the sub-  
sequent instructions of the 2 Jan<sup>y</sup> 94. yet as this step  
resulted (very properly) from a spirit of conceiv-  
ing to America, it <sup>did</sup> not follow that the first orders were  
contrary to the law of nations — that the right to seize  
did not imply the right to condemn, & therefore that  
all property condemned in virtue of the orders of the  
Nov. — without other just cause of condemnation, ap-  
pearing in the proceedings — would be restored without  
costs or damages. But where it appeared that seizure

If condemnations of American vessels had taken place under colour of these orders after the revocation of them by those of the 8 Jan<sup>y</sup> was known, - that they would restore & allow the claimants full costs & damages -

On this decision I will only observe that Americans will hardly acquiesce in it as grounded on the law of nations - However just & right it may be for a British Prize Court, to absolve captors ~~from~~ from the pay<sup>t</sup>. of costs & damages, for seizures & condemnations made under orders, issued by the British Government; yet as the citizens of the U. States have sustained heavy losses - losses as we contend & believe contrary to the clear - acknowledged law of nations we must seek that redress from a Board composed of persons from both nations, which we cannot fully obtain from a British Court of Appeals -

Public rumour states that a change is shortly to take place at <sup>this</sup> tribunal - a change however that will not operate in our favour - not yet probably to our prejudice - It is said that Lord Hawksbury is to succeed Lord Mansfield as President of the Kings Council - Consequently of the High Court of Appeals -

There were no causes heard before this Board on  
Saturday last, nor will any be heard on Saturday  
next, on acc<sup>t</sup> of the Whitsuntide Holydays -

I lament that the business under my care pro-  
-grees so slowly. When the treaty, however is in  
full operation (I trust it will meet with no ob-  
-stacle on our part) things may possibly go on better.

I learned with much pleasure from the  
Registrar, a few days since - that the Lord of the  
intended, when they had settled a few important points  
in some leading cases, not to hear any cases arising  
that came within the principle of those <sup>already decided</sup> ~~cases~~, in  
some point of distinction was clearly established.

Inclosed I send you the state of the appeals  
under the direction of Messrs. Brickell & Tawney -  
By this you will see in how many cases we  
obtain appearances. You may wish for the copies  
proceedings from the West Indies to bring them  
to a hearing - I have the honor to be  
with sincere respect &c.  
Sir your obed<sup>t</sup> &c. <sup>serv<sup>t</sup></sup> J. Lamb

7th May 1796  
J. Baynes 3rd May 1796

Sir.

The enclosed report you will make such use of, as in your opinion will most conduce to the public good -

Sorry I am to say that ~~that~~ it was in this case only, that the Judge of the Admiralty showed a disposition to do us full & impartial justice - However it is to be hoped that by some means or other we may yet receive a full indemnification for our losses -

Yours obt<sup>d</sup> serv<sup>t</sup>

S. B.

The Hon<sup>ble</sup>

21. May. 94.

The Secy of State.

no. Oct. 8.

The Secretary of State

The Secretary of State

London 3. June 1794 187

Sir,

By the present opportunity. (the Farmer). I have the pleasure to send you copies of sundry printed cases, that are set down for a hearing - When they will be heard however is a matter of great uncertainty - Three weeks have now elapsed without one sitting of the Lords of Appeal. You Saturday next they do not sit because it is the Kings birth day.

We wait only for your instructions now to form some arrangement for settling the class of cases where our demand is <sup>merely</sup> ~~only~~ for costs & damages.

I enclose are duplicates of my last letter of the 3. & 17. May. - the originals were by the Fair American for N. York, apprehended to have been lost in a most violent gale we had on Monday last.

I have the honor to be with  
great regard. Sir your obed<sup>t</sup>. serv<sup>t</sup>.  
Saml Bayard

Saml. B. Douglass

June 3. 1796. recd Aug 13. 1796

The Secretary of the  
S. B.

By the present opportunity (the  
former) I have the pleasure to send you  
of sundry printed cases that are set down for a  
hearing - When this will be had reference is  
made to great uncertainty - There would have  
been (I hope) without any delay of the  
business and that the old and because of  
the thing itself may.  
The most easy for your instruction was  
from some arrangement for settling the  
cases where are concerned in ~~some~~ the best of  
I expect to see the best thing but this  
3. 17. 1796. - The original was of the  
can for the 17. 1796. of the original to have  
in a most perfect state and was  
I have the honor to be  
Yours &c.

(Dup.)

188  
London 11 July 1796

Mr. John Templeman

George Town

Sir

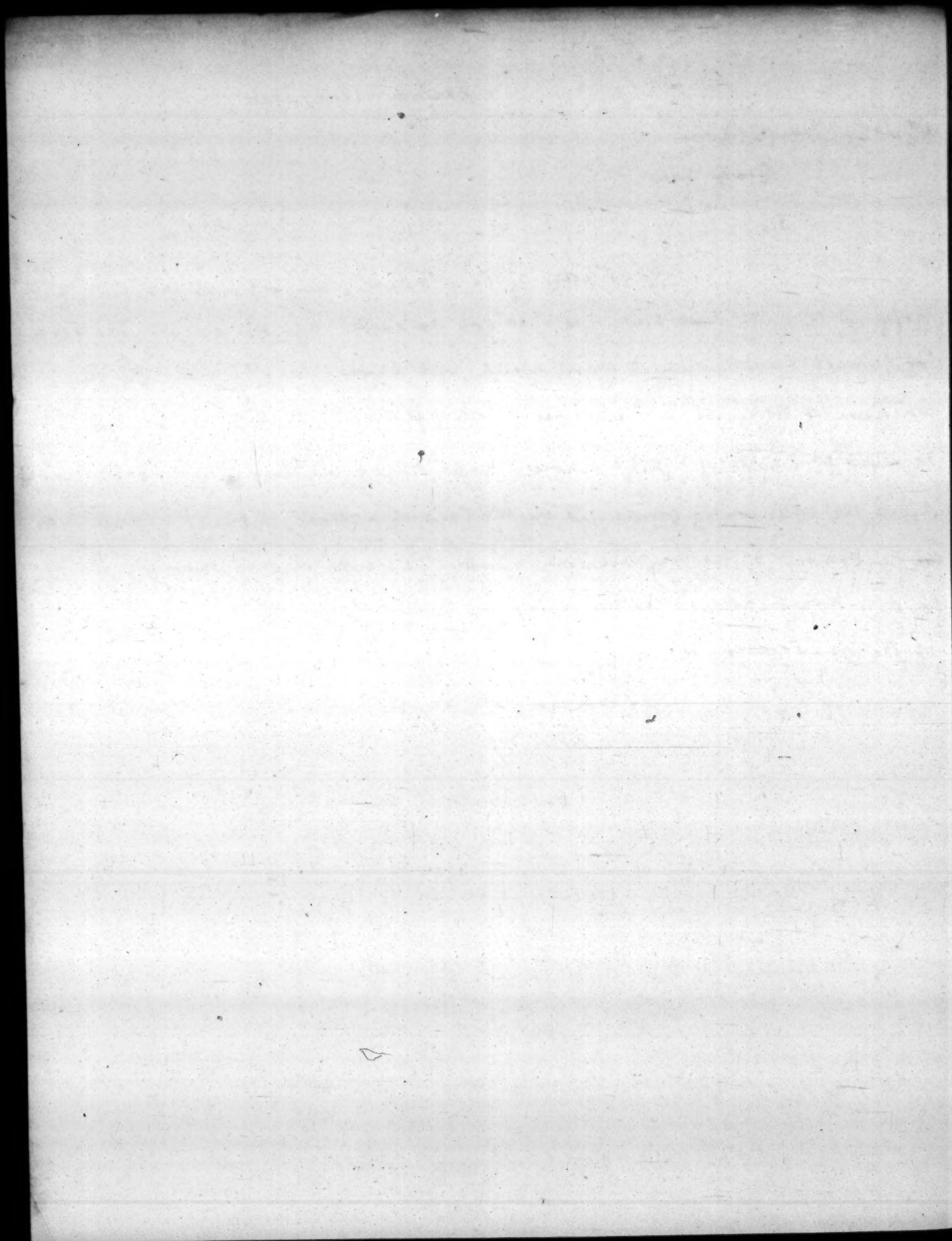
Your letter of the 10th Jan<sup>y</sup> last is now before me; that referred to as of last summer I do not remember having received. The former I would have answered immediately but having been waiting for the opinion of Counsel on your case. But a few days have elapsed since I received it, a copy of which I now transmit you by the earliest conveyance. I fear the opinion is grounded on the Law of nations, however I shall take the judgment of the Commissioners under the treaty on it, as soon as they form a board. Should they furnish you any relief I shall inform you of the same without delay.

I remain with regard

Dear Sir

Your obedient servant

Saml. Bayard



The Secretary of State.

London. 14. July 1794. 1789

Sir.

By the present opportunity (the  
Reliance. I have the honor <sup>to send you</sup> copies of sundry letters &  
papers which will probably be interesting to ~~some~~  
the merchants who are particularly concerned in the  
event of the causes now depending before the Court  
of Appeals. Unmistaking from a few words that  
fell from the Master of the Rolls on last Saturday  
week that it was not probable the Lord President  
would attend the Court after the 23. instant, I know-  
ing there were a number of cases ready for hearing  
I thought it advisable to present a memorial to  
the Court on the subject. a copy of which is inclosed  
It answered the intended effect. Their Lordships  
availed themselves of this occasion again <sup>to state</sup> the  
points they had determined, & strongly recom-  
-mended both to Claimants & Debtors to settle as

as many cases as came within their late determination  
They declared their readiness to hear & determine any  
case which was in principle clearly distinguishable  
from those already decided - I threatened with the costs  
of appeal the party who showed obstinately insi-  
on a hearing where the real points in the cause had  
been settled by a prior decision -

The full report of the arguments of Counsel  
of the determination of the Court of Admiralty in  
the case of the Relief-Boat. I had the honor of ac-  
knowledging by the last conveyance - At present I found  
that in the Sally - & boat - the most interesting  
that has been argued before the Court of App-  
I flatter myself it will prove acceptable both  
to our government & fellow citizens to have  
full a statement of the views of Administration  
on ~~the~~ a point the most important to the U.  
of any that has occurred in the present war.

I enclose also <sup>is</sup> a copy of the proposition of Lord

Gunnville to Mr Adams for the settlement of the cases of cost & damage. & a list of the cases that are left to accommodations in this way -

It is with pleasure I add that Sir W. Scott & Dr Nichol have commenced the examinations of the maps, & I trust in a short time they will have established certain principles that will induce the speedy settlement of the whole -

I must again urge the necessity of sending forward as speedily as possible copies of the proceedings of the Vice Admiralty Courts - they are essentially necessary to the settlement of every case of capture -

News or news scarcely have yet reached me from Montserrat or St. Kitts. Claimants should particularly take notice that in the late case of capture <sup>where</sup> a claim has been given below & nine months have elapsed from the sentence, before the process reaches me, no relief can be given in the way of appeal -

(The bills you sent Mr Puckney some time

since become due the 19. inst. - what proportion  
of the money arising from these M<sup>rs</sup> P. intends  
appropriating for the expenses incident to the  
prosecution of the appeals I know not - but  
the whole would be short of what probably  
our Proctors will expect in the course of the  
present summer -

We look anxiously for the  
arrival of Mr H. Pinckney - When the Board  
of Comm<sup>rs</sup> is once formed I trust their decisions  
will be such as will expedite the settlement  
of all the American claims & appeals.

I have the honor to be  
with great respect

Sir

Your Obedt<sup>t</sup> Servant

Sam<sup>l</sup> B. Jr

Recd. S. B. Jr. at July 19. 1796

London. 15 July. 1794.

191

Dear Sir

As I apprehended the ~~enclosed~~ <sup>present</sup> ~~present~~ <sup>present</sup> of two enclosed papers would afford you considerable pleasure I have taken the liberty of sending them under cover to you. When you have looked them over you will please to forward them to the Secy of State. I shall send him duplicates of them all by the Rebecca - Capt. Hughes - who sails at the same time with the Juno - but probably will not arrive so soon -

I have the honor to be

with sincere respect &c

Yrs

Yam o'd' hbe nwt

Saml Bayard

This Certificate  
John Jay Esq.

Dear Sir

As I apprehended the enclosed  
of the enclosed having been offered you some time  
before I have taken the time of writing the  
under cover to you. When you have looked them

over you will find them to be  
of great value. I shall send them to you  
by the next day. I am, Sir, very  
truly yours, J. G. Thompson

With much respect  
to the  
honourable  
J. G. Thompson

With much respect

Yours truly  
J. G. Thompson

J. G. Thompson

J. G. Thompson  
Esq.

The Secretary of State. London. 3. Oct. 1796.

192

Sir

I had the honor to receive your letter of the 27. July last on the 19. Sept<sup>r</sup>. I am happy to find by it that none of my letters to the Secy<sup>r</sup> of State have failed. That of the 15. Dec<sup>r</sup> 94. was noted by Mr. Randolph in his office 6. April 95. & that of the 16. June 95. I conjecture has been misdated in the copy retained by me.

I am sorry to say that nothing has yet been done in the settlement of these cases of cost & <sup>repaid</sup> damage, to Sir W. Scott & D<sup>r</sup> Nicholl as arbitrators - I have every day or two call'd on D<sup>r</sup> N. to make inquiry concerning them. The delay in settling them arises from the Department of State here not having furnished Sir W. Scott with necessary authority & instructions.

I inclose I have the honor to send you an account as furnished by Mr. Hade of the disbursements made. & bills due to him - including the usual advances when causes are set down for hearing before

the  
the Lords of appeal. of £5,000 remitted to Mr.  
Pembury in April last. I have just received from  
Mr King £1000 of which I have paid Mr Stade  
£600. on the within acc<sup>t</sup>. — I understand from  
Mr King that Congress appropriated \$20,000.  
for the expenses of the appeals at their last session.

Thus much more will soon be wanted unless  
tho' the Commissioners I shall be able to obtain  
from the British Govern<sup>t</sup> a reimbursement of  
costs which our claimants have been condemned  
to pay contrary to the principles of justice & equity.

I shall avail myself agreeably to your direction  
in all cases where it may be expedient & proper of  
the aid of our Ministers & Commissioners —

I enclose I have the honor to send you a list  
of the cases under the care of Mr Stade exhibiting  
the present state of each —

I remain with

real esteem & regard  
Sir your most obed<sup>t</sup> serv<sup>t</sup>

Sam<sup>l</sup> Bayly

The Secretary of State

London 3 Oct. 1796

193

Sir,

I had the honor to receive your letter of the 27 July last on the 19 Sept<sup>r</sup> - I am happy to find by it that none of my letters to the Department of State have failed. That of the 15 Dec<sup>r</sup> 1794 was noticed by M<sup>r</sup> Randolph in his of the 6 April 96, & that of the 16 June 93, I conjecture has been misdated in the copy retained by me.

I am sorry today that nothing has yet been done in the Settlement of those cases of Cost & Damage referred to Sir W<sup>m</sup> Scott & D<sup>r</sup> Nicholl as arbitrators. - I have every day or two - call'd on D<sup>r</sup> C<sup>o</sup>. to make enquiry concerning them - The Delay in settling them arises from the Departm<sup>t</sup> of State here not having furnish'd Sir W<sup>m</sup> Scott as yet with necessary authority & Instructions.

Inclosed I have the honor to send you an account as furnish'd by M<sup>r</sup> Slade of the disbursements made & Bills due to him - including the usual advances when causes are set down for hearing before the Lord of Appeal. Of the £5,000 remitted to M<sup>r</sup> Binckney in April last. I have just received from M<sup>r</sup> King £1000 of which I have paid M<sup>r</sup> Slade £600 on the within acct - I understand from M<sup>r</sup> King that Congress<sup>had</sup> appropriated D<sup>r</sup> 20,000. for the expences of the appeals at their last session. This & much more will soon be wanted unless thro' the Commissioners I shall be able to obtain from the British Government a reimbursement of the Costs which our Claimants have been condemn'd to pay contrary to the principles of justice & equity.

I shall avail myself agreeably to your directions in all cases where it may be expedient & proper, of the aid of our Minister

& Commissioner -

Inclosed I have the honor to send you a list of the cases  
under the care of Mr. Slade exhibiting the present state of each

I remain with real esteem & regard,

Sir, your most obedient servant

Saml Bayard

Dup. -

original by the Eagle for Philad.

- with
1. a list of cases under the care of Mr. Slade
  2. of the disbursements made by him & advances charged
  3. the case of the S. Carolina with Dr. Nicholls' opinion

London Oct. 6. 1796.

194

Sir,

I perceive by M<sup>r</sup>. Slades letter to you & by the papers you left with me sometime since, that he has furnished you with the amt. of several Bills of Costs, in cases stated to have been finally decided in the Admiralty, & likewise that most of the many cases that you have confided to his care are or soon may be at a stage in their progress, at which he expects a farther advance of eighty pounds Sterly in each - as the payment of a single Bill will constitute a precedent for all future cases, it appears to me proper, before such precedent is made, that the Items & regularity of the Bill should be critically examined; I therefore desire, that you will receive from M<sup>r</sup>. Slade the Bills of Costs in such cases under his management as have been terminated, & that you will transmit them to me in order that I may make such enquiries respecting them, as may be requisite. - The public money at my disposal applicable to various objects, does not amount to a sum sufficient to satisfy even the expectations of a single Doctor; I have however advanced to you one thousand pounds Sterly which you will apportion among our Doctors according to the number of cases in their respective hands, having regard to the stage in which they are. —

These Payments should be made, on acct. & without being applied to any particular cases, or classes of Cases - This will be productive of no inconvenience to the Doctors, & will give time to consider & decide, the manner in which the Business must ultimately be conducted. — No precise understanding exists on the Subject of the expences which attend the prosecution of the Claims of our Citizens in the Court of Admiralty - In most instances the public have, & will probably continue to advance, the money that may be requisite - Tho' under all circumstances such advances may be reasonable, it appears to me just that ultimately these advances should be reimbursed by the Claimants - where the Costs are paid by the Doctors, the Claimants have no title to them, except to repay the public advances - where the Costs are charged upon the Claimants, it must be on the principle of their delinquency, & for that reason they ought to be paid by them, & not by the Public - In these cases however we have no means in our power to recover such Costs, except in the Instances of a restoration of the

property claimed, & a Condemnation of the Claimants in Costs - In such cases as well as in all cases where the property is restored & the Captors condemned in Costs, it will be in your power to retain Sufficient to reimburse the public advances - This I think will be proper that you should do.

With much esteem I am

Dear Sir, your most obed<sup>t</sup> Serv<sup>t</sup> James King

Guilford Street 11<sup>th</sup> Oct. 1796.

Dear Sir,

I avail myself of the earliest leisure moment to answer your Letter of the 6. Inst. which I had the honor to receive on the 8<sup>th</sup>.

Agreeably to your request, I shall without Delay obtain from Mr. Hadd<sup>d</sup> the Bill of Costs in such Cases as have been terminated & will transmit them to you, & you make such enquiries respecting them as may be requisite -

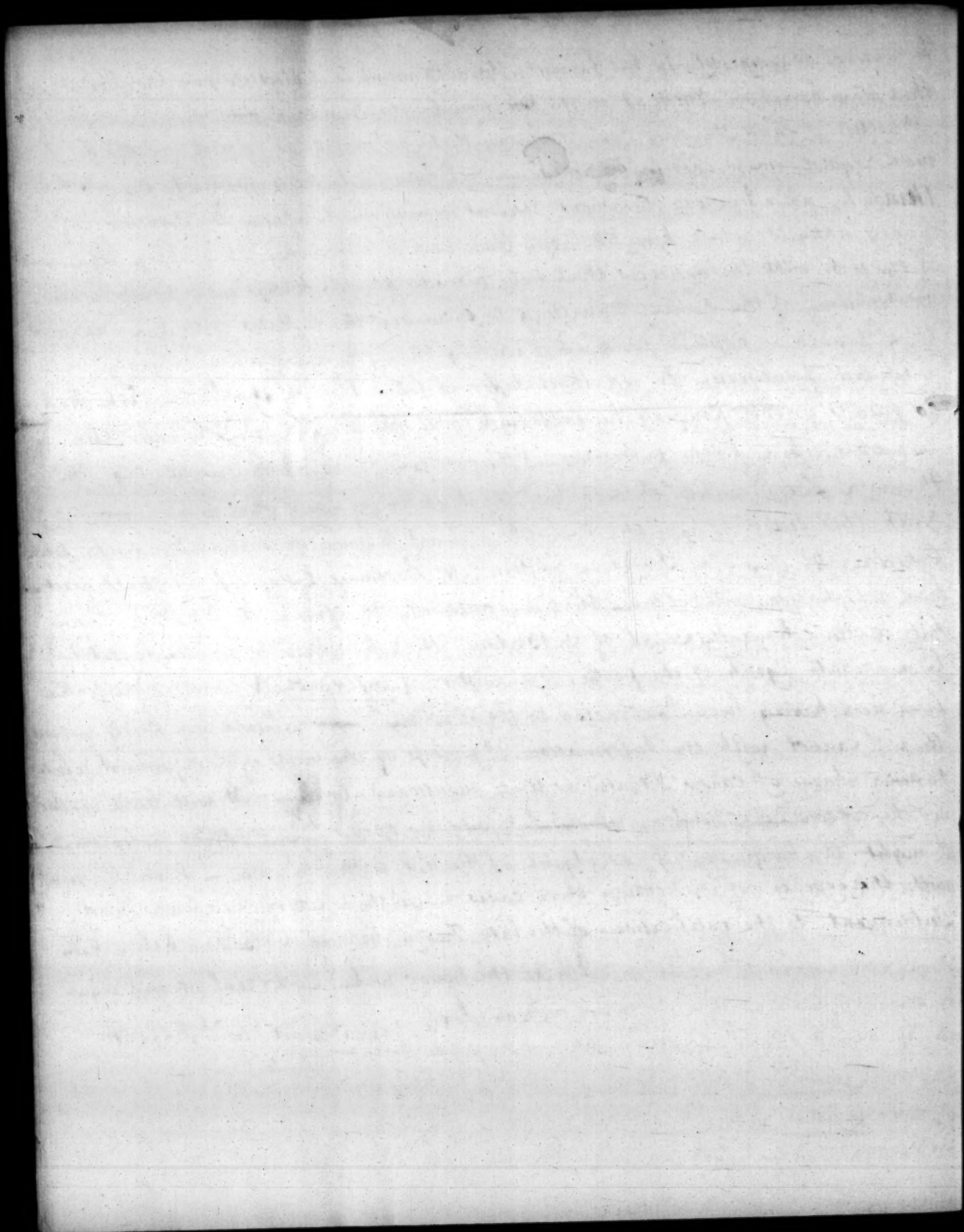
I have already had the honor to submit to your examination 2 Bills that have been regularly taxed by the Registrar of the Admiralty & those in the Farm & the Harriet & the Items in all the other Cases will, I presume, correspond to those in the two Bills already furnished, & the amount of Costs in each Case will vary according to the length of the proceedings, & the different steps that are taken in the different stages of the Cause - I shall strictly obey your instructions & the disposition of the public money you have advanced me on acct of the app<sup>ts</sup>. In all Cases where property is decreed to be restored without Costs, I shall as you direct, retain enough to satisfy the advances made in the Cause by the U. Stat<sup>s</sup> & where with Costs - enough to defray the extra Costs (Should any such be charged to the Claimants - "Where Costs are paid by the Captors you say "the Claimants have no title to them, except to repay the public advances" Unfortunately, the Case never exists in which the Claimants have any Costs to receive - The most favorable Sentence, in the Court of Admiralty or of Appeals (a restoration of property with Costs & Damages) operates only to exempt a Claimant from paying his own Proctors entirely Bill, & subject his Adversary to the payment of it as taxed - but notwithstanding

the sentence is completely in his favour - the Claimant is subject to pay the items that may have been struck off in the taxation by the Registrar -

Whether I shall in any case discharge those extra-costs is a point on which I must request your express instructions - I have lately been applied to by Mr. Murdock, an American Merchant Resident in London to assume the direction of sundry appeals which have till lately been under his direction, & to charge the Government of the U. S. with the expences that have already accrued & that may accrue in the prosecution of the same - Unwilling to encumber the U. States with any expences that I could possibly avoid - & conceiving that the object of my agency was intended principally to aid those sufferers from British spoliation who had no friends or correspondents in London - & those who were unable to make the advances necessary for the prosecution of their suits - I have declined answering Mr. Murdock's letter until I could have the sanction of your opinion -

With this letter I have the honor to submit to you what has already passed between Mr. Jay - the Secretary of State, Mr. Pinckney & myself on the subject - from which you will observe that my authority to assume the direction of any suit in the Admiralty Court of G. Britain that had been originally instituted by a private agent of the party, is a matter of inference, & arises principally from not having been "instructed to the contrary" - Should you be of opinion that I cannot, with the information I possess of the views of our Government, undertake charge of causes situated as those mentioned above - It will be a matter worthy of consideration, & on which I should be glad of your advice whether I ought to charge myself as agent of the U. S. with the case & our Government with the expence of prosecuting those cases where the capture has been made subsequent to the ratification of the late Treaty between G. Britain & the U. States

I have the honor to be with real esteem & regard  
Dear Sir, your most obed<sup>t</sup> servant.



London Nov<sup>r</sup> 20 1796

Dear Sir

My Engagements have been such as to prevent as early an answer to your Letter of the 11<sup>th</sup> ult. as I could have wished. From the examination of the Opinion of Mr. Jay & Mr. Binckney respecting the Extent of your Agency, as likewise of the Instructions of the late Secretary Mr. Randolph, I am not able to discriminate the Admiralty Cases that have hitherto been under the direction of the private Agents of the Claimants, from those that have had the advantage of your care & protection — The former cannot, as it appears to my mind, have less Right to the pecuniary & other aids of our Government than the latter; & as no precise instruction restrains you from accepting the Direction of any case that occurs, the quality of Right gives in my opinion, the same title to all to ask & expect the assistance of our Government — Not perceiving a reason which distinguishes the Cases of Capture made prior to the ratification of the late Treaty, from those made since (except that the latter having no Remedy against unsatisfactory Decisions by appeal to the

Commis<sup>rs</sup> of the two Nations, require the more care & Skill in the ordinary Course of the Admiralty) I am of opinion that it is proper & just, that you should take the Directions of all cases, in which the Claimants shall apply to you for that purpose, whether the same relate to captures made before, or since, the Ratification of the Treaty —

It is not requisite that you should engage to reimburse any expences that have been actually paid by the Claimants or their Agents — It will be enough that you are ascertained of the Sums so advanced; & that you should assume the Payment of the expences that now are, or in the Course of the Admiralty may hereafter become, due

With Sincere Esteem I have the Honor to be

Dear Sir,

Your obed.<sup>t</sup> & faithful Serv<sup>t</sup>  
Rafus King

I Bayard Esq.<sup>r</sup>

The Secretary of State.

London 29. November 197<sup>1</sup> 1896.

Sir,

I last night received a box of papers sent by the Ship Fame, Capt Jones - They ought to have reached <sup>me</sup> weeks or 2 months ago. The first information I had of their loss, was from one of the custom house officers about 4 days past. Had the Capt<sup>n</sup> of the Fame on his arrival sent it to one of the American coffee houses - or had he dropp'd me a line informing me of his having these papers in charge - or had Mr. Wagner, observed the same precaution, much time would have been saved & perhaps considerable loss -

File the papers are examined it is impossible to say whether any or what injury has been sustained. ~~but~~ It is not improbable, <sup>however</sup> but this delay may have occasioned the loss of an right to appeal in some out of such a multitude of cases, & whether this will amount to such "manifest delay" as will

exclude us from relief by the Commissioners under the treaty is a question which they will have to determine. It would be advisable in future whenever Mr Wagner sends me any papers to inclose the list of the same in a letter which he <sup>had</sup> put in the letter bag of the vessel, by which the papers are sent I wish in the box containing the papers — I have the honor to inclose you

by the present conveyance copies of letters that have passed between our Minister Mr Key & myself

Agreeably to your instructions in your letter of the 27. July last. I have referred to him in all the matters of any difficulty, where I thought <sup>the</sup> interest of you ~~and~~ fill the American claimants required, & I have been able with great satisfaction the aid I derive from his superior talents & knowledge —

In the case of the Relief-Cole, I have received payment from the Agents of Sir J. P. Grey & Sir C. Grey for the valuable cargo with its & damages. Of this I transmitted information

198  
the owners by the first conveyance, that offered -  
& authorized their drawing on me for the amounts  
so received - The Court of Appeals met for the  
first time this season on Tuesday the 15 instant.  
- They heard two American cases, <sup>in</sup> one of which  
(the Betts (Bettinton)) they reversed the sentence of condem-  
nation, & decreed the claimants full costs & damages -  
In the other (the Patz (Helson)) they have postponed  
giving judgment. They were proceeding to sit twice  
a week, to hear & determine the different causes set  
down for hearing; when suddenly on Thursday last  
they gave notice that the hearing of all American cases  
would for the present be suspended. This it is said  
will continue till the case of the Betts - Furlong, before  
the Commissioners of the two nations, is determined &  
the point settled - whether the final sentence of the  
High Court of Appeals for prize causes can be  
reviewed by the joint commission under the treaty.  
This great point once settled I trust business will  
proceed with greater expedition, & payments for the

hopes sustained by our fellow citizens, become  
frequent & reasonable —

Within a few days past I have laid before  
the Commissioners, in pursuance of their request  
memorials in every general class of cases — How  
they will dispose of them — & what time the law  
will take a few days must determine —

I shall have <sup>the</sup> pleasure to write you again  
probably in a few days by the British Com-  
missioners who expect soon to sail for Philad.  
New York in a frigate — from Portsmouth

In the mean time I have the  
to be with sincere respects & esteem

Yours most obed<sup>t</sup>

Wm Lloyd Garrison

Saml Baya

To the Most Noble and Right Honourable  
the Lords Commissioners of Appeals in Prize Causes.

The Memorial of Samuel Bayard  
the Agent appointed by the Government of the  
United States of America to prosecute claims  
and appeals in prize Causes.

~~Respectfully~~ Sheweth

That your Memorialist as agent for the United States  
and in behalf of those Merchants whose claims and appeals are  
under his direction, begs leave to state to your Lordships that since  
the seizure and condemnation of American Vessels and Cargoes which  
took place principally shortly after the commencement of the present  
war, no measure has been omitted by the Government and the  
Merchants of the United States to bring those cases to final adjudication  
before your Lordships in the way of appeal.

That there are about 60 American Cases now ready for  
hearing before your Lordships, about 30 of which are under the  
particular direction of your Memorialist, the residue under the care  
of Special Agents employed by the Parties concerned.

That in the cases of the *Esper*, *Liberty*, *Helen* and *Nancy*,  
argued more than a twelve month ago; no judgment has yet been given,  
that the point to be determined in these cases is of considerable importance.

on the decision of which your Memorialist has been informed  
and believes the event of several Cases in the High Court of Admiralty  
depends,

That the cases of the Charlotte, Betsey Augustus, & Good Intent  
have long been ready for hearing, and for your Lordships sentence  
which sentence the Government & Citizens of the United States  
expect with particular anxiety,

That on no subject is the sensibility of the people of the  
United States more acute than on the event of the appeals now depen-  
ding before your Lordships,

That since the ratification of the late Treaty of amity  
Commerce and Navigation between Great Britain and the United States  
and the determination of the American Legislature to carry the  
same fully into effect on their part, the American Proprietors of  
Ships and Cargoes as may have been illegally condemned by the  
Courts of Vice Admiralty in the West Indies and elsewhere, have  
looked for the speedy restitution of the same with increased impatience

That in most of those cases of appeals to your Lordships  
from the West Indies and Bermuda the American owners have been  
above two years deprived of the use of their Vessels Seized and  
condemned to the extreme injury of all, & to absolute ruin of some  
of the Claimants, and that were they immediately to have a Decree  
of restitution in their favor, many months would probably elapse  
before they could receive the proceeds of their Vessels & Cargoes so  
decreed to be restored.

Your Memorialist therefore hopes that your Lordships taking  
the premises into consideration will please to direct such measures to be  
taken as shall accelerate the hearing of those cases of appeal now depending  
before this Honorable Court, and the restitution of such American property  
as may have been illegally condemned, and now detained to the great injury  
of the respective claimants and owners of the same.

~~And your Memorialist is signed -~~  
~~Respectfully~~

Sam Bayard

Now, the committee has the honor to inform you that your letter of the 10th inst. has been received and is under consideration. The committee has the honor to inform you that your letter of the 10th inst. has been received and is under consideration. The committee has the honor to inform you that your letter of the 10th inst. has been received and is under consideration.

Very respectfully,  
J. M. Smith

(Copy) For the settlement of cases merely  
of cost & damage —

To shorten the proceedings in many of the cases of American captures, in which it is conceived that the expence and delay of proceeding by appeal might throw difficulties in the way of obtaining adequate compensation, where it might be due, it is proposed

That the Agent of the American Government (M<sup>r</sup>. Bayard) shall be at liberty to bring such cases of this description as he shall think proper, before the arbitration of two persons (of which His Majesty's advocate has consented to be one) the other to be named by M<sup>r</sup>. Adams or M<sup>r</sup>. Bayard

That these arbitrators shall decide both on the Question of the amount of any compensation which they shall deem to be due, and also on that of the probability of adequate compensation being obtained in the ordinary course of judicial proceedings and that it shall be free to the King's Proctor on the one side, and to the American Agent on the other after such decision is given to express their respective acquiescence or dissent therefrom

That when both parties shall express acquiescence, the same shall be binding on the two Governments, but where either of the Agents dissent from the decision, the Cause shall proceed in the same manner, and all the Rights of the two Governments and of every Individual respecting such case shall remain the same, as if no such reference had been made

Copy  
The following is a copy of the original manuscript  
of the report of the Committee on the subject of the  
proposed amendment to the Constitution of the United States.

The Committee on the subject of the proposed amendment to the Constitution of the United States, have the honor to acknowledge the receipt of the report of the Committee on the subject of the proposed amendment to the Constitution of the United States, and to state that the same has been forwarded to the Committee on the subject of the proposed amendment to the Constitution of the United States.

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The Committee on the subject of the proposed amendment to the Constitution of the United States, have the honor to acknowledge the receipt of the report of the Committee on the subject of the proposed amendment to the Constitution of the United States, and to state that the same has been forwarded to the Committee on the subject of the proposed amendment to the Constitution of the United States.

The Secretary of State

London 11 Jan<sup>y</sup> 1797

201

Sir

The inclosed is a duplicate of the letter I had the honor to address you on the 29<sup>th</sup> Nov<sup>r</sup> by the Franklin. Since which the copies of proceedings sent by the same - Capt Jones - have been put into our Proctors hands & examined - In almost the whole of those cases it appears that no complaint has been made on the part of our Citizens against the sentences of the Vice-Admiralty Court; of course no appeal has been entered, nor can any now be entered unless on the special application of the party interested, with proper documents to account for the delay in not sooner entering or prosecuting his appeal -

I have the honor to inclose for your information a letter to Mr Jacob Clarkson - with a copy of the proceedings had before the Commiss<sup>rs</sup> under the Treaty in the case of his Vessel the Friendship - A. Tuttle M<sup>r</sup> -

The consideration of this case has suggested to Mr King & to our Commiss<sup>rs</sup> the expediency of conveying as early & as generally to the merchants of the U. States as possible information to the following effect.

" That the ordinary time within which an appeal may be prosecuted before the High Ct of App<sup>ls</sup> for Prize causes from the sentence of a Vice-Admir<sup>l</sup> Ct, is 9 months where a claim has been given, & 12 months where a claim has not been given in such vic. ad. Ct.

" That this time was enlarged by an order of the King in Council in favour of American Claimants, so that in every case of capture or condemnation during the years 1793 or 1794, an appeal might

be instituted any time in the year 1795 - In all cases since the 1. of Jan<sup>r</sup>. 1795 the ordinary time only has been allowed within which to enter appeals -

That if in any case these periods have been suffered to elapse, & sufficient documents not been sent forward for the entry of an appeal in London - or where an appeal has been prayed in the Vice-Adm<sup>l</sup>. Or in which the condemnation took place, & measures have not been immediately taken to transmit an authentic copy of the proceedings of said Court to London in order to prosecute such appeal, every case of this description, it is necessary to the attainment of compensation that the party should by affidavit account for his delay in entering - or in prosecuting his appeal, & should shew that such delay had not been occasioned by his own "negligence or wilful omission"

On the 5 inst<sup>l</sup> I had the honour to receive your last diff<sup>l</sup> of the 25 Oct<sup>r</sup>. 1796 inclosing a List of the processes that have been sent me by different vessels - This List has been carefully examined & the cases arranged under three different classes as you will find inclosed - In those of the first class nothing can at present be done by the Government or the parties, except in hastening the return of the Inhibitions that have been issued in them respectively & transmitting further proofs where such shall be ordered by the C<sup>t</sup> of App<sup>ls</sup> or by the Commis<sup>rs</sup> - In the 2<sup>nd</sup> Class duplicate copies of proceedings will no doubt be obtained & forwarded with all possible expedition - In the third - <sup>it is</sup> would be a waste of money to obtain duplicate copies of proceedings, unless the parties shall complain of the sentence of the Court below & apply for redress against the same<sup>2</sup>

This List is sent for your immediate Satisfaction. but a more complete one, is now making out of all the American Cases which will contain the most full & satisfactory information respecting all the Claims & appeals on behalf of Citizens of the U. States.

In cases where Inhibitions have been taken out & forwarded to the Department of State, & not yet returned duplicates are now preparing & will be forwarded by the first of the Spring Vessels.

There are several Vessel cases of the late Mr. Le Maire of Philad. involving property to the amount of nearly \$20,000 that have been under the care of a private Agent, but since transferred to mine, in which restitution cannot be obtained, unless some relation or creditor (which the U. States now is) shall take out letters of Administration, & authorize me to prosecute & settle this business -

The List I sent of the papers rec'd by the Peggy (Nyer) specified only those in one box - from the mate of this Vessel I learnt there was another box addressed to me - This contained the processes from St. Kitts & Dominica ~~to~~ & was totally lost - Those from the former of these Islands

amounting to 69. I have the honor to be with perfect respect  
the latter - to 61. & enclose, Sir, your most obed<sup>t</sup> Serv<sup>t</sup>

*[Faint, mostly illegible handwritten text, likely bleed-through from the reverse side of the page.]*

recd 23/ March 1897.

James W. B. & Co. 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

London 12 Jan<sup>r</sup> 1797.

213

Sir

Your letter of the 3. Dec<sup>r</sup> by this W. Penn has this day arrived - "A statement of the cases under the direction of the different Proctors similar to that of Mr Slade" is now preparing & will be forwarded by one of the first spring vessels - a copy will also be sent by the February Packet. The mistake respecting the papers sent from the Peggy - ~~was~~ <sup>is</sup> explained to the Sec<sup>y</sup> of State by the present conveyance.

My request to several gentlemen in different parts of the U. S. to send me papers of a general description arose from my desire of inspecting their business - for Altho' in every case of appeal, the copy of proceedings in the Vice Admiralty Courts only, can in the first instance be admitted, yet further proof is often ordered & in such cases it is highly expedient to have such proof at hand & not to ~~have~~ <sup>be</sup> under the necessity of sending to the U. S. for ~~such proof~~ after the determination of a cause - beside in all the Martinique cases & in the cases of cost & damage such general proofs are desirable - I have this day paid £2.4.3. <sup>half</sup> postage on the copy of proceedings in the case of the Brig. Victor which you put in the W. Penn's bag - Such bulky papers should be delivered to the Captain with directions to leave them <sup>for me</sup> at the Philad<sup>a</sup> or New York coffee house - I am with great regard Sir your obd<sup>t</sup> serv<sup>t</sup> S. Bayard

P.S. Since writing the above it occurs to me that the  
letters, from me to Genl. in New York, <sup>are</sup> referred to  
those letters ~~that~~ <sup>which</sup> I address'd to all the American  
claimants who had forwarded some proofs - but  
in whose cases the copies of proceedings in the  
Vice admiralty Courts had not been received -  
Soon after your letter was written the Secy  
of State must have received from me a list of  
those cases in which the proof was wanting  
with a copy of the original letter I address'd  
those claimants whose cases were of this description.  
I am sorry the Secretary of State should have  
any part of that letter "inadvertently", as it was  
with much consideration & was intended to save  
time to the parties, & to render their compensation  
more adequate - When in future you send for  
any copies of proceedings be so good as to put them  
under the special care of the Captain of the vessel  
by which they are sent - & enclose me a list of the  
same - which you will please to put in the letter  
of the same vessel - & a duplicate - by some other vessel

g<sup>t</sup> - owner of master unknown -

284

George

Jan<sup>y</sup> 19<sup>th</sup> - 1797 - We want further information respecting  
the length of time of detention & the Tonnage of the  
Vessel

Sign<sup>d</sup> W<sup>m</sup> Scott  
John. Nicholl

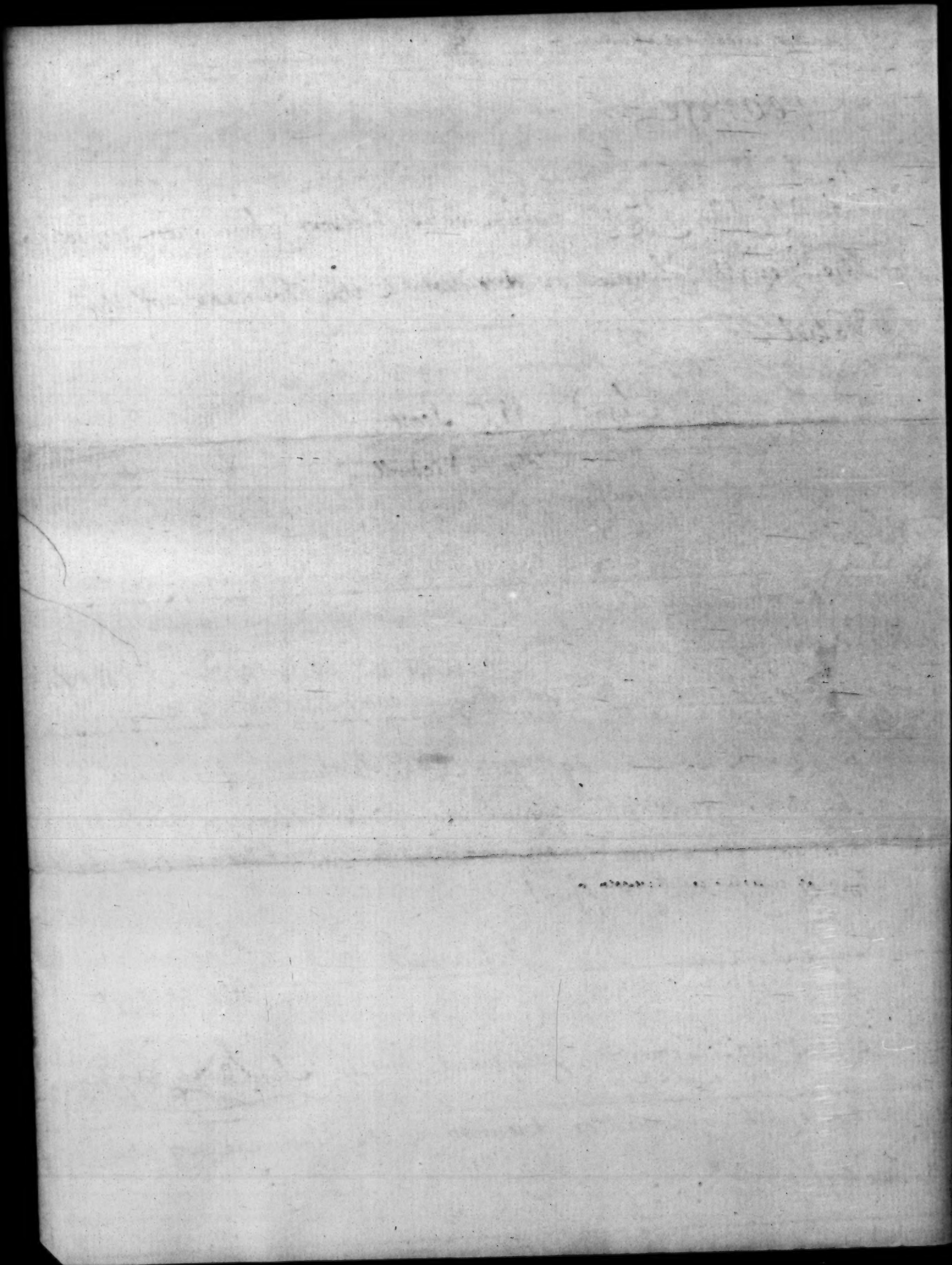
London 13 Feb<sup>y</sup> 1797

In order to obtain compensation for  
the loss or damage sustained in this case, you will please  
to furnish as soon as possible ~~the~~ further proofs required by  
the above Gentl<sup>ies</sup> to whom cases of Costs & Damages have been  
referred for a more early & equitable Settlement than could be  
made by way of appeal -

I Remain,

your obed<sup>t</sup> Serv<sup>t</sup>.

S. Bayard



Messrs. Crickett & Corouley present their Compliments to Mr. Bayard & send him as desired Duplicates of the Inhibitions in the under-mentioned appeals which are at a stand in some cases from there having been no service of the Inhibition, in other from the Writs not having been transmitted & in several from both Circumstances united.

Commerce - Bouton  
 Sally - - Tilton  
 Union - - Walner  
 Fannis - - Hirt  
 Sally - - Gray  
 Betsy - - Freeman  
 Lucy - - Grant  
 Sawallow - Fitch  
 Susanna - Morey

Condemned at  
 St. Christopher's

Chance - Smith  
 Lydia - - Foster  
 Polly - - Goodhue  
 Swan - - Hawkes  
 Claripa - Whitbridge  
 Eres - - Taylor  
 America - Smith  
 Lyon - - Morris  
 Success - Bennet  
 Margaret - Dalton  
 Nancy - - Green

Condemned at  
 Dominica

to be sent to Messrs.  
Bridgman & Hall by the  
Jamaica Packet.

{ Rachel - Robinson }  
Agnes - Cox } Condemned at Jamaica  
Friendship - Habbel }

{ William Richmond }  
Neptune Staples } Condemned at Montserrat.  
Neuter Lovell }  
Rachel Lee }

Venus Batten Cond<sup>d</sup> at N. Providence

Discilla Smith - Cond<sup>d</sup> at Nevis

Nancy - Hill - Cond<sup>d</sup> at Antigua

Hope Harley - Cond<sup>d</sup> at Barbadoes

Messrs Cricket & Torouley beg leave to remind  
M<sup>r</sup>. Bayard that it is possible that some of these Privateers may  
(as in the instances of the Neptune, Staples - & Neuter, Lovell  
which they have noted in the Instructions) belong to Islands distant  
from those whereat the Condemnations passed - and that in all  
cases it will be necessary finally to send the Inhibitions to the place  
where the Privateers belong as being most likely to effect the personal  
required

Messrs. Cricket & T. have to add with the foregoing that  
it is also sent Duplicates of the Inhibitions in the

Philadelphia Packet, Hawks

and Resolution, Burlingham

captured by His Majesty's Ships and the Commanders whereof  
they are informed by the last Return of the Officer of the Court  
are now in the West Indies

D<sup>rs</sup> Commons  
16<sup>th</sup> Febr<sup>y</sup> 1797

Mess<sup>rs</sup> C. & T. beg leave to add in several of these cases  
 they are in possession of authentic copies of a part of the proceedings  
 in the West Indies that is of the examinations & sentence but not of  
 the ships papers - With this partial transmission C. & T. will use their  
 best Endeavours to obtain Justice for the American Sequestrators, but at the  
 same time it is no less proper to procure a regular transmission  
 of all the proceedings & Papers in the respective Courts appealed from  
 touching the cases alluded to, as the only sure means of preventing  
 the Delays which are otherwise to be expected on the part of the  
 Captors.

C. J. J. accountancy & currency  
Institutions —

in the August letter of  
1876 & 1877.

The Secretary of State London Feb<sup>y</sup> 23. 1797. 209

Sir

I have the pleasure to inform  
that Sir W. Scott, <sup>Dr Nicpall</sup> have conferr'd together on the  
subject of the cases of cost & damage. In many  
of them where the documents were satisfactory  
they have made definitive awards - in others their  
awards are conditional, allotting a certain sum  
of money on the party's producing an affidavit  
of his having sustain'd a loss to that amount.  
where the proofs were defective, they have in  
many cases specify'd the nature of the further  
proofs demanded. In the rest simply declared the  
total want of ~~the~~ <sup>all</sup> necessary information -

I have examin'd ~~the~~ the cases in which they  
have given awards. You will observe with  
pleasure that they have made liberal allowances  
to our claimants, & exacted a less degree of proof  
than would probably have been demanded by  
the Commissioners under the treaty -

I have written to all the claimants interested in  
that class of cases informing them of the awards  
in their respective causes, & stating the kind of proofs  
they should furnish where further evidence is required.

When I have obtained the ~~assent~~ consent of  
the King's Proctor to those awards which are absolute  
I shall thro' our Minister endeavour immediately  
to have some arrangement made for paying the sum  
allotted to the claimants respectively -

By the present conveyance I have the pleasure to  
forward sundry duplicate inhibitions, agreeably to a list  
contained in the inclosed note from Messrs Crickell &  
Lawley - Inclosed also is the copy of a letter from Sir  
W. Scott & Dr Nicholas to Lord Grenville on the subject  
of the costs of cost & damage - which they had examined  
& disposed of - By the present opportunity, you will also  
also receive a list of the American cases, arranged  
alphabetically, & distributed in various classes -  
Great pains have been taken to render it as complete  
& correct as possible; some few cases remain to be added  
to Class 13. which will be done as soon as it is practicable  
- changes will be often making in the different cases,

will under it necessary that frequent additions & alterations  
should be made <sup>to this list</sup>. In a few weeks time I hope to forward  
another copy of this list. more complete than the present,  
in case, this should by any accident, not get to hand -

<sup>March</sup> I am extremely sorry to inform you that the  
Lords of appeal still postpone sitting, to hear & deter-  
mine the American cases now ~~ready~~ depending before  
them ready for a hearing - they were to have met  
on Saturday last but notice is now given that no  
board will then be held - nor is any time mentioned  
when they will next meet - They <sup>have</sup> met to hear  
American causes but twice since August last -

Our causes in the Court of Admiralty proceed with  
<sup>as before in the Court of appeals</sup> the same pace - From the vast accumulation of business  
before this court - its continual increase - & the age & in-  
firmities of the Judge, I fear there is little chance of our  
obtaining compensation thro' the medium of this Court -  
in the ~~Maritime~~ <sup>Maritime</sup> claims - To the Commissioners we shall  
be obliged eventually to resort for redress. I trust the  
period is not far distant when all our claims will  
regularly come before them - Inclosed is a list of a  
few cases in which the parties have never sent forward  
any papers - so that the names <sup>and</sup> of the owners is unknown

I have the honor to remain  
Sir your most obed<sup>t</sup> serv<sup>t</sup> Saml Bayard

Dec 18 May 1797

Mr. Smiler  
R. Key Esq.

Guilford Street 4. April 1797.

209

Dear Sir,

It was yesterday intimated to me by D.<sup>r</sup> Nicholl that Sir William Scott & himself would not consider themselves at liberty to receive as arbitrators any more cases of Cost & damage after the first of May next - & therefore whatever cases of this description I had to lay before them must be submitted by that day. I shall carefully review the different cases & if there yet remain any of this class proper for their consideration that have not been laid before these Gentl<sup>men</sup> it shall be done without delay. But it has occurred to me that if by an arrangement with the British Government the question of costs & damages could be submitted to these Gentl<sup>men</sup> in the Martinique cases much expence & delay would be saved. In the first of this class of cases heard before the Court of Admiralty we had a decree of restitution of Vessel & Cargo with costs & damages - In the others heard immediately after, the Judge restored the American property seized & sold at Martinique; but without costs or damages for which appeals are now depending - In all the rest he ordered further proof - accordingly further proof has been produced, & it is expected that in the course of the present or the ensuing week these claims will again be heard, & from what I learn from the Kings Proctor in the greater part of them there will be no opposition to a decree of restitution, tho' without costs & damages. - If appeals are to be prosecuted in all these cases the very costs of appeals in many cases will probably equal or exceed the amount of our demand on account of costs & damages already incurred. - Independently of which we cannot have the benefit of the decree of restitution till the final

Sentence of the Lords of appeal is obtained - The delay & expence  
thus incurred is highly injurious to all the parties concerned, except  
the Gentlemen of the profession

I have the honour to remain

D<sup>r</sup> Sir, your most Obed<sup>t</sup> Serv<sup>t</sup>

S. B.

Saml Bayard. Esq.

London 10 April 1797.

Sir,

Of the cases hitherto presented to the Board, we have  
had to lament in many the want of necessary evidence to support  
the claim or to substantiate the most important allegations of your  
memorials. In the case of the Farmer - Osborn - there is not the same  
evidence as to the demand for five barrels of Sugar claimed and decreed  
by the Court of Appeals to Osborn, nor of the value of a Case of Lime  
for which compensation has been claimed - The Sally - Griffiths  
stand postponed for want of evidence - In the Nancy - Florence -  
is no evidence to prove the amount of loss - In the Betsy -  
& in the Brig Friendship, Tuttle - she has been a neglect to prosecute  
in the Courts of Great Britain for restitution, & memorials are off  
to the Board praying for compensation, unaccompanied by any  
evidence to remove the charge as yet justly presumable of wilful  
negligence & neglect.

The final decree in the case of the Farmer was

Farmer . . . 20 Febr<sup>y</sup> 1796

Sally Griffiths . 5. Dec<sup>r</sup> 1795.

Nancy .. Florence. 27 Feb. 1796.

The refusal by the Lords Commis<sup>s</sup> to admit the appeal in  
the case of the Betsy, Chace -- 5. Dec<sup>r</sup> 1795 -  
and no reason offered for the delay, altho the decree of the

Vice Admiralty Court was on the 20 March 1794. -

In that of the *Friendship*, Tuttle - the reason offered was deemed unsatisfactory by the Claimants Factor, that no application was ever made to the Lords for permission to enter an appeal -

It has been urged, at the Board, that the neglect to procure evidence in these cases or to shew that endeavors have been made & have failed from causes, not under the control of the Party, renders it presumable either that the party did not consider himself entitled to relief, under the provisions of the Treaty; or that in the opinion of Claimants Compensation was attainable by the awards of one Board under any pretence, & by allegations unsupported with testimony.

You must feel the necessity of removing such charges, by a very exact & critical examination of each case, which may come before the Board. - In your examination you should consider every case where the capture was prior to the 17 Nov<sup>r</sup> 1794. - & ascertain the points to be relied in for relief, & what evidence is necessary to support such. - It is, moreover, absolutely necessary that you should write to each individual, & require him to furnish precisely that evidence. - You will request that the evidence be taken before a known Magistrate. - It is advisable as it will add more weight to the testimony that the British Consul if within twenty miles be notified of the time & place of taking the deposition, that he may attend & propose any questions to the witnesses, if he see cause.

We have reason to fear, unless this is very diligently & punctually attended to, that many hopes will fall in the Claimants, & great dissatisfaction arise among the citizens of the United States.

We are, Sir, your very Obedt Serv<sup>t</sup>

Sign<sup>d</sup> C. Gore.  
Wm<sup>m</sup> Minknap.

Guilford Street. 18 April 1797

P. Gore &  
Messrs Pinckney Esqrs

Gent<sup>ls</sup>,

Your letter of the 13 inst<sup>l</sup> I have the honor to receive on Saturday - With you, Gent<sup>ls</sup>. I have the lament that in several cases already laid before your Hon<sup>ble</sup> Board the evidence in support of the claims has not been more complete but peculiarly circumstanced as those cases have been. I think considerable allowance should be made. They were all cases in which first principles were to be settled. & precedents to be established that were govern clauses. Prior to the determination of the Board to grant relief to Claimants whose cases had been heard & decided in the British High Court of Appeals for prize causes, it was impossible for any one to say what would be the result of the deliberation of the Board on this important point. & Since the final settlement there has not been time to bear from any part of the U. S.

In the case of the Farmer - Osborn - it is very singular that not the slightest evidence appears in the copy of proceedings before the Vice Admiralty Court at Jamaica as to the box of Linens claimed on behalf of Messrs Brown & Hendrickson - These Gent<sup>ls</sup> have probably supposed the expense of claiming these goods would be their value - & hence may have neglected furnishing evidence to their restitution -

as to the 5 barrels of Sugar restored by the order of their Lordships in order to avoid capience where the value of the articles restored was so small, it has been left to the captors bring in the acc<sup>t</sup> sales which they have engaged to do. & which they daily expect from Jamaica -

In the Sally - Griffith - it was impossible for any one to conjecture that the Board would have required explanatory proofs than the affidavit of Mr. D. Conyngham

produced - an affidavit approved by Counsel in London previously to its being sworn to in America - & which in their opinion would have been satisfactory to the Court of appeals & ensured the restitution of the cargo to the claimants of the same.

In the *Nancy - Florence* - It was not foreseen that a separate voucher for each charge made in Mr. Kings acc. (Signed by himself) would be required - It is not unusual for the Registrar of the Court of Admiralty to allow charges that are proved only by the signature of the Party - If it appear probable that such charges were actually paid - where the charges appear to be extravagant - a discretion is exercised in reducing them -

The cases of *Betsy - Chase - & Friendship - Tuttle* - were brought forward expressly to ascertain how far this board would presume wilful omission & neglect<sup>s</sup> in cases where claimants had not sent forward their papers in time to have appeals entered in the British Court of appeals - & whether further time would still be allowed to shew the cases from which such delay arose.

In both these cases I arose to the parties immediately on the arrival of their papers informing them of relief being unattainable in the ordinary course of proceeding in the British Court of appeals - assuring them at the same time that I should lay their cases before your Hon<sup>ble</sup> board, to ascertain whether any relief could be had here, & under what circumstances - Situated then as these two cases have been, it was hardly fair to urge either "that the parties did not consider themselves as entitled to relief, or that "in the opinion of claimants compensation was attainable by the awards" of your Hon<sup>ble</sup> board - "under any pretence & unsupported by testimony you say, Gentl<sup>men</sup> - "I must feel the necessity of removing such charges by a very exact & critical examination of each case that may come before the board" - that I should ascertain the points to be relied on for relief & what evidence is necessary to support such - that it is moreover absolutely necessary that I should

might write to each Individual & require him to furnish precisely  
Such" -

The duties thus prescribed are certainly new & weighty  
& require much time & application - To fulfil them in the manner  
as stated above - would I apprehend demand the entire & undiverted  
attention not of one but of several persons, thro' the whole of the  
ensuing summer at least - I shall however apply myself without  
delay "diligently & punctually" to the examination of the different  
cases under my care & make all the progress in it that my health  
& other more pressing avocations will admit - at the same time  
- you must be aware, Gentl<sup>rs</sup>, of the interruptions it will be ex-  
posed to, from my attendance on the Court of Admiralty & appeals  
when they sit to hear & decide American cases - from the regular  
correspondence I am obliged to support with our Government &  
many claimants who write to me from all parts of the U. S. - from  
the daily enquiries on the subject of business - from the special  
(residents in London) of many American merchants - & from the attention  
that must occasionally be given to business before your Hon<sup>rs</sup>.

Under such circumstances you must be satisfied that it  
be no light matter to make an "exact & critical examination" of  
less than 300 cases - In many of these the papers are so  
=minous that the bare perusal of them in all the claims I  
should consume several months -

But supposing the cases all carefully examined & the  
points to be relied on for relief ascertained, it is by no means  
= probable but that the new points would be made & other  
demanded, since there are few cases so clear as to escape when  
scrutinized by ingenuity & professional skill.

I have been waiting for some time past for a large  
of papers from the Secretary of State which have at length  
arrived.

On receipt of these I have proposed again examining the evidence furnished in all the cases of appeal & where the copies of proceedings were still wanting, advising the Secret<sup>y</sup> of State & the parties interested of the deficiency - At the same time I should have requested evidence of the costs & expenses incurred in the different Vice Admiralty Courts - & of the value of the vessels & cargoes condemned at the several ports of their destination.

Perused of these Documents - I trust the Board would not find many of the cases in which it would be necessary to order further proof as most of the condemnations of American vessels & cargoes were rather under colour of orders issued by the British Government than from want of evidence of the property being truly American.

I have the honor to remain

Gent<sup>l</sup>,  
with great respect  
your most obed<sup>t</sup> Serv<sup>t</sup>.

A. B.

London 29 April 1797

Sir,

Apprehending from your letter of the 18<sup>th</sup> instant, that there may have been some mistake as to several cases mentioned in ours of the 15<sup>th</sup>, we would remind you that in the case of the Sally Griffith, the order of Postponement is at the prayer of Mr. Mayard, who makes the request on account of the absence of papers, which he is in expectation of speedily receiving, & who desires that, should they prove insufficient, further time may be allowed the claimants to furnish more satisfactory documents, if such should be in their power or possession."

The Nancy - Florence is a case where there is no voucher or evidence of any sort to support a single charge in the account.

We would also observe that in cases where the Party has not prosecuted in due season of law, the presumption is that such delay is owing to wilful omission & neglect & it is incumbent on the party to remove this presumption -

We cannot conceive, that the business of examining the cases, will prove, on trial, so weighty as you seem to fear, & from its being an interruption to your correspondence with the claimant, or with the claimants; we should suppose such examination would be absolutely necessary to furnish materials for any useful communication with either.

But however we may err in this supposition in estimating the labour & time required for this duty, we are that unless an examination is immediately entered upon, & a speedy attainment of defects in the evidence in all the cases & an attempt made to supply such defect by application to the party, that great losses will be sustained by the claimants.

a general dissatisfaction pervade the U. States -

We are so sensible of the importance and necessity of the examination & Statement desired, that if, from any cause, you are unable to make the enquiry, State the deficiency of evidence, and make application to the Party to furnish it, we will in conjunction with our King, procure such aid as shall be necessary to attain this object.

That new points may be stated, as you mention, is not impossible; but that those who oppose the claims of the Citizens of the U. States are a state in raising objections, can never be a reason for the Party to neglect making his case clear & perfect, according to his own judgment. The supposed existence of such a disposition & capacity in the Respondant, ought to be conclusive on the complainant to furnish the most plenary proof that his claim is within the Description for which compensation has been promised.

We take the liberty of Subjoining some ideas of the different classes of Cases that suggest themselves to our minds, and of the points that are likely to be made, and of the evidence which to us appears requisite. In the support of claims before our Board. In going thro' the proposed examination, you will probably see others which in this general view may have escaped our notice.

With full reliance, Sir, that you will be able to effect this examination by your own exertions, or, if in your judgment, it cannot be completed without aid, you will notify us very shortly that we may take measures for procuring the necessary assistance we remain with much regard your very obedt Servant

P. Gore

Wm. Pinckney

C. Gore &

20m Pinkney Esq.

Gentlemen,

Guilford 25 May 1797

In answer to your letter of the 29<sup>th</sup> ultim. which I had the honor to receive yesterday, I have only to say that I have commenced the examination of the Claims in the manner & for the purposes mentioned in your letter of the 13. & shall give the most diligent & unremitting attention to this object. After devoting my time & attention thro' the present month should I find myself "unable to effect this examination by my own exertions" I shall without delay notify you of the same that measures may be taken for procuring the aid necessary to complete it; but I beg you to be assured that I shall most sedulously endeavour to render any application for further assistance unnecessary -

That I shall be able to ascertain the general principles that may be requisite to support the different claims intended to be laid before your Board - & where there is a deficiency in the to write to the Parties for the purpose of having such deficiency supplied, I have no doubt. It is what I always intended soon as the Board had in some leading cases prescribed the nature & degree of evidence that would be required in those hereafter to be submitted to its Judgment - but whether I shall be able to make that "exact & critical examination of each case - to ascertain the points to be relied on for relief, & what evidence is necessary to support such" - so as to obviate all objection & render the production of further proof, needless is what I apprehend it would be rash to promise - & perhaps vain to expect - I can only say I will faithfully endeavour

to effect it according to the best of my abilities -

Respecting the Sally - Griffith - permit me to add - Gent<sup>l</sup>,  
that the case was under the care of Messrs. Conyngham & Nesbitt's  
Special agent & correspondent, in whose hands all the papers were  
until the time of my presenting a memorial to your Board & that  
my request - "that further time might be allowed the Claimants to  
furnish fuller & more satisfactory documents if such should be  
in their power or possession" arose from a previous intimation  
that in the opinion of the Board those already submitted were  
not sufficient to establish their claim.

I have the honor to remain with  
real respect & esteem

Gentlemen,

your most obed<sup>t</sup> Serv<sup>t</sup> -

S. B.

not sufficient to establish this claim.  
that is the opinion of the Board of Commissioners.  
the their power of jurisdiction derive from a previous investigation  
presented before a more satisfactory evidence of such facts, the  
my opinion that further time might be allowed the Commission to  
until the time of my presenting a memorial to your Board, & that  
Special Agent & Commissioner, in which I have all the papers and  
that the case was under the consideration of the Board of Commissioners.  
to effect it according to the plan of my relation -  
respecting the same - I submit to your Board.

I have the lower isomeric with

Real Estate & Insurance

Perkins

1881

The Secretary of State

London. 12. May 1794. 215

Sir

I enclose I have the honor to send  
you copies of letters that have passed between our  
Commissioners & myself. - duplicates of which I sent  
a few days since by the Cincinnati via Baltimore.

The Martinique cases remain still unheard by  
the Court of Admiralty. in a few days however  
the Judge will reach them -

The Lords of Appeal once more commenced sitting  
to hear causes on Saturday last. They case of the  
Salome - belonging to Mr Ambrose Vase was argued  
& altho' laden with most suspicious circumstances.  
the sentence of condemnation was reversed & further proof  
ordered - the further proof we have at hand. which  
when produced I trust will prove satisfactory &  
ensure a sentence of restitution -

By the next vessel for Philadelphia I hope  
to be able to send a more correct & complete list of  
the American cases than the one by the St. Penn.  
Many changes have been made in the state of  
many cases from the arrival of the papers by Mr. Green.

I trust we shall soon begin to be reimbursed  
by the award of the Comptroller for the costs  
we have paid the Proctors on different appeals.

Those in the Sally-bhoote & the Farmer's  
will be payable the 1. July. which as soon as  
received from the Govern<sup>t</sup>. I shall pay over to  
the Proctors in discharge of other bills that are  
due -

I have the honor to remain  
Sir your most obed<sup>t</sup>. serv<sup>t</sup>.

Sam<sup>l</sup> Bayard

The Secretary of State.

London 12. April 1797. - 216

Sir.

Since the date of my last letter of the 28 Feb<sup>y</sup> by the W. Penn. the Lords of appeal have never once met, nor is it known certainly when they intend next to meet. Mr King was lately informed by the Master of the Rolls, that the reason of the Court of Appeals not having met lately, was the engagements of the President of the Council, as one of the members of the secret Committee of finance - but that when the report of this Committee has been finished & made to Parliament, the Lord President will be able to attend the Court of Appeals, where he probably then sit for the dispatch of business. The delays we experience here are a most serious inconvenience, inasmuch, as they prevent us from bringing our cases before the Commissioners under the treaty for that final & complete compensation, which British prize Court, agreeably to its ordinary rules & procedure is unambiguously to give - The delays we experience also from the Court of

Admiralty ~~are~~ in the Martinique cases, are an evil  
of which we can only complain, but which we are  
unable to remove. In March 1794 we were fortu-  
nate enough to obtain a hearing in there, when  
the Judge thought proper to restore one vessel & pay  
with costs & damages - 7. without, & the rest he ordered  
for further proof. What further proof would be  
expected from the claimants we have never seen  
him able to ascertain either from the adverse  
party or the Judge. In almost all this class of cases  
some further documents have been transmitted by the  
claimants, & put into our proctors hands, since the  
issuing of the monition against the Captains. They all  
have brought in such papers as their agents had pre-  
served at Martinique - With these we have been  
waiting for some months past to be heard before  
the Court of Admiralty - but such is the map-  
siness now attending before this Court - No in-  
dignate is the Judge to the dispatch of it, from dis-  
cussing the information of age, that I fear some time will be

stable before the American claims for the captives at  
Martinique will be made & decided - We were encouraged  
to hope they would have been heard last week, but  
some cause has intervened, that will procrastinate  
the determination of ours until after the Easter holidays.

In those which still remain for sentence, we  
cannot expect a more favourable issue than in the  
last <sup>that were decided</sup> seven - a decree of restitution, but without costs  
or damages - I have therefore begged Mr. King to  
interest himself with the govern<sup>t</sup> to have the  
question - I am of costs & damages refer'd to the arbi-  
tration of Sir W. Scott & D<sup>r</sup> Nichol as in that case  
which has already been submitted to these Just<sup>s</sup>.

I trust in this application our minister may be  
successful, as the arrangement is so obviously advan-  
tageous to the British Govern<sup>t</sup> as well as <sup>to</sup> the American  
claimants -

The trunk of papers entrusted to the  
care of Mr. Gramond, papayer on board the  
Hammer - has safely arrived at Liverpool & is  
now on its way to London - The documents it contains  
particularly those from Montserrat, will be highly useful

As soon as the loan now in contemplation has  
been agreed on & an instalment paid on it, I shall  
to receive the amount of those defunctive amounts  
in the cases of lost & damaged which have been  
by Lieut. Scott & Dr. Nichol -

I have the honor to receive

Yr most obed<sup>t</sup> h<sup>o</sup>. serv.

Lano Bayard

see 218 Sept 1897

Plans of condemnation at Martinique where  
the information has been used from the owners  
of the vessel or cargo — 218

Brig Jason — David Ross — belonging to Dr. J. D. Smith  
and J. F. Wachsmuth and  
Brig Ann — John Hightman — gen. Philip Reilly of the  
Brig Minerva — Sand Kolb — Blain McElenahan and  
Brig Mary — Monday — Patrick Moore of the

wrote to the first informing them of it 22<sup>nd</sup> May 1797.  
J. Wagner

rec'd in Mr. Bayard's letter  
of the 20<sup>th</sup> Feb. 1797.

In the following cases appeals have been entered & the copies of Proceedings received

Halifax process sent by  
the brig Peggy - Capt. Hayer -  
15 April 1796.

Brig Commerce - Kescott.  
Ship Anomack - Derby.  
2<sup>d</sup> Amazeen - O'meara.  
2<sup>d</sup> Atlas - - - - - Slow

Barbados process sent  
by the same vessel.

Sch'r.	Fox	-	Adams
D.	Hope	- -	Farley
Sloop	Ranger	-	Gove
Brig	Dispatch	-	Townsend
Sch'r.	Resolution	-	Burlingham
Ship	America	-	Gardner
Sch'r.	Trial	- -	Baker
-	L'Esperance	-	Paddock
-	Lady Washington	-	Lombard
Sch'r	Holly	- -	Andrews
D.	Hope	- -	Felt
Ship.	Olympia	-	Campbell

mantle - St Kitts - Roscoe sent by the  
by the Consulate themselves,

Bark	Commerce	Wattles
brig	Susannah	Morey
do	Mercury	Still
do	South Carolina	Freare
do	Peter	Robson
do	Ysant	Befom
Small	Good-Intent	Archer

Dominica proper sent  
by the ~~Slave~~ Slave claimants)

Sch's Lucy	-	-	Brown
brig Sally	-	-	Wilson
Sch's Industry	-	-	Pool

Antigua - by the ~~same~~ Concord.

Ship	Commander	Owner
Sloop Paddy	- - -	Fond
Brig Governor Johnston	- - -	Andrew
Sch. Ranger	- - -	Harrison
Do. Whim	- - -	Orne
Brig Swan	- - -	Milliken
Sloop Nancy	- - -	Hill
Sch. Molly	- - -	Deland
Do. Edward	- - -	Hotchkiss
Do. Hawke	- - -	Durham
Do. Success	- - -	Holmes
Brig Nancy	- - -	Hokey
Sloop Friendship	- - -	Downe
Sch. La Fayette	- - -	Wyatt

Bahama Islands Scorp  
by the same 20<sup>th</sup> July 1796 and

Cargo of the Brig Esper - Brown  
 d<sup>o</sup> Brig Nancy - Adams  
 d<sup>o</sup> Sch'r Two Brothers - McGray  
 Sloop Roby - -- Pravin  
 Cargo of Brig Betty & Billy - Bowne  
 d<sup>o</sup> Sch'r. Nabby - Baker  
 d<sup>o</sup> Brig Ethel - -- Poor  
 Ship - Hope - -- Moodie  
 Cargo of Sch'r Helen - Durham  
 d<sup>o</sup> Ship Harmony - Robinson  
 part of cargo of Ship Hope - Moodie

In the following Cases appeals  
have been entered & the copies of proceedings received

Jamaica, Roceps  
by the Molly - Captain Frost vid.

Sch<sup>r</sup>: Two Friends - - - Coulton  
Last Cargo Sloop Agnes - - - Coz  
Sch<sup>r</sup>: Delight - - - Sturges  
Brig Hope - - - Vernon  
Sloop Hannah - - - Bowler  
Last cargo of Sch<sup>r</sup>: Peggy - Forrester  
2<sup>d</sup>: Brig Dolphin - - - Bradbury  
Sloop Freedom - - - Burchan  
3<sup>d</sup>: Winsey - - - Hunter

Tortola proceps by unit  
Miford 25 Jan. 1796

Cargo of Ship Neptune - Woodbury

Tortola proceps by unit - vid  
Miford - 25 January 1796

Continued

Sch<sup>r</sup>: Hercules - - - Jones  
Snow Sakey - - - Collins  
Sch<sup>r</sup>: Dove - - - Burked

Among M<sup>r</sup>: Higginsons papers  
M<sup>r</sup>: Bayard received copies of proceps  
from S. Vincents in 3 Causes

2. Clasp.  
In the following Cases appeals  
have been entered - & inhibitions extracted - but  
the copy of proceedings wanting

St Kitts proceps sent by lot -  
the Brig Peggy - C<sup>t</sup>: Hayer, 15 April  
1796

Sloop Dove - - - Hampstead  
Brig Hetty - - - Sullivan  
Sch<sup>r</sup>: Sally - - - Gray  
Sloop Sally - - - Colby  
3<sup>d</sup>: Sauney - - - Hoyt  
Sch<sup>r</sup>: Charming Sally - - - Croningthiald  
Brig Esquibo Packet - - - Glover  
Sloop Union - - - Warner  
Brig Sally - - - Burchmore  
Sloop Naripa - - - Remington  
3<sup>d</sup>: Sally - - - Tilton

St Kitts proceps cont<sup>d</sup>

Sch<sup>r</sup>: Betty - - - Freeman  
Sloop Dove - - - Isaacs  
Brig William - - - Trow  
Sloop Nelly - - - Wattle  
Brig Martha Mary - - - Stanbury  
Sch<sup>r</sup>: Sea-Flower - - - Brown  
3<sup>d</sup>: Lucy - - - Grant  
Snow Neptune - - - Towne  
Brig Stark - - - Holland  
Sch<sup>r</sup>: Atlantic - - - Marshall  
3<sup>d</sup>: Nancy - - - Griffin  
3<sup>d</sup>: Commerce - - - Bouton  
Sloop Swallow - - - Pitch

In the following 2 claps - continued -  
 & Exhibitions extracted, but the copy of proceedings wanting

220

St Kitts Receipts Cont.

Brig Bethiah	Atthrops
Sch <sup>r</sup> Ceres	Robinson
Brig William	Trow
Sloop Polly	Rapinas
Sch <sup>r</sup> Harriet	Brooke
Ship Charlotte	Mallaby
Sch <sup>r</sup> Swift	Butler
Brig Charlotte	Hughes
S <sup>o</sup> Triton	Ridgway
S <sup>o</sup> Peudence	Pratt
Sloop Dolphin	Crauston
Ship Sidney	Porter
Sloop Betsy	Fait

Dominica Receipts by the same  
 Vessel

Sloop Nancy	Hathaway
Brig - Polly	Goodhue
Sch <sup>r</sup> Nancy	Green
S <sup>o</sup> America	Smith
Sloop Neptune	Green
Schoon Friendship	North
S <sup>o</sup> Aurora	Amazeen
S <sup>o</sup> Chance	Smith
Sloop Philadelphia Packet	Hawkes
Sch <sup>r</sup> Ceres	Taylor
S <sup>o</sup> Success	Bennet
Sloop Charles	Brooks
Brig Lydia	Forester
Sloop Adventure	Phillips
S <sup>o</sup> Lyon	Morris

Dominica Receipts Cont.

Brig Kate	Crockett
Sch <sup>r</sup> Bee	Snow
S <sup>o</sup> Clarissa	Whitridge
S <sup>o</sup> Martin	Sanders
Brig Nabby	Curtis
S <sup>o</sup> Margaret	Dalton
S <sup>o</sup> Eliza	Wellman
Sch <sup>r</sup> Swan	Hawkes
Sloop Sally	Osgood
Brig Friendship	Edman
Sch <sup>r</sup> Polly	Ellery
S <sup>o</sup> Betsy	Eddy
Brig Union	Cottle
S <sup>o</sup> Mary	Edwise
Sch <sup>r</sup> Salem Packet	<del>Edwise</del> Terry
Brig Maria	Burchmore
S <sup>o</sup> William	Clap
Sch <sup>r</sup> Friendship	Saty
S <sup>o</sup> Roebuck	Wharf
Brig Thomas	Welsh
Sch <sup>r</sup> Speedwell	Edwards
S <sup>o</sup> Neptune	Ropes
S <sup>o</sup> Polly	Ingersoll
S <sup>o</sup> Ranger	Clark
Sloop Rufel	Holbrook
Sch <sup>r</sup> Walsalborough	Porter
S <sup>o</sup> Dolphin	Graves
S <sup>o</sup> John	Wallace
S <sup>o</sup> Betsy	Barr
S <sup>o</sup> Betsy	Craftsman
Brig Betsy	Brown
Sch <sup>r</sup> Freedom	Pearson
S <sup>o</sup> Nancy	Sampson
S <sup>o</sup> Pharis	Harlow

Ind. Chap—

In the following Cases the Parties have taken  
no step to recover what has been captured, & ~~the same~~ ~~of the cases are as follows~~

St. Kitts Process sent by  
the Brig Peggy, Captain Hayer  
15 April 1796 Nov—

Brig	Dispatch	—	—	Marshall
do	Columbia	—	—	Green
do	Almira	—	—	Fayne
do	John	—	—	Howland
Sch'r	Polly	—	—	Shellebar
Brig	Lucy & Molly	—	—	Carvet
do	Fortune	—	—	Newhall
Ship	Aurora	—	—	Byrnes
do	Asia	—	—	Coffin
Brig	Alfred	—	—	Bruce
do	Samuel	—	—	Bigelow
do	Amiable Julia	—	—	Howland
do	Success	—	—	Wooditch
do	Mary	—	—	Barber
do	Liberty	—	—	Miller
do	Delight	—	—	Smulley
Sch'r	Sally	—	—	Butter
do	Nymph	—	—	Fitcomb
Brig	Betsy	—	—	Prince
do	Fanny	—	—	Gardner
do	William	—	—	Henderson
Sch'r	Hep	—	—	Hotchkiss
Brig	Lark	—	—	Jarvis

Sloop Care — — — Childs

(Dominica Process by the same Vessel)

Sch'r	Same	—	—	Heysham
do	Betsy & Hannah	—	—	M. Clenach
do	Jeremiah	—	—	Glover
do	Polly	—	—	Keen
Ship	Harmony	—	—	Stone
Sch'r	Ruth	—	—	Hood

Cargo of the brig Eliza, — — — Harrison

Antigua Process by the Concord.  
12 Sept. 1795

Sloop	Patty	—	—	Coffin - Cargo
Brig	Dolphin	—	—	Barker
do	Sally	—	—	Reside
Sloop	Trial	—	—	Campbell
do	New York Packet	—	—	Shaw
Sch'r	President	—	—	Pool
do	William Lindsay	—	—	Williams
do	Success	—	—	Holmes
do	Betsy	—	—	Willis
Brig	Yorick	—	—	M. Mitter
Sch'r	John	—	—	M. Lachlin
do	Eury	—	—	Lee
do	Lydia	—	—	Weston

3<sup>d</sup> clasp continued -  
In the following cases the Parties have taken

220-1

no steps to recover what has been captured, ~~seizure is~~ ~~seizure is~~

~~seizure is~~ ~~seizure is~~

Antigua Process Cont.

Sloop Resolution - - - Young  
Brig - Sally & Betty - - - Wheeler  
s<sup>o</sup> Fair American - - - Angus

Bahama Islands Process  
by the ~~Proviso~~ 4<sup>th</sup> July 1796

Ship Hannah - - - Stobo  
Sch's Union Alias Paragon - - - Ballard  
Cargo of Brig Betty - - - Roberts  
Brig Cygnus - - - Noce  
Cargo of Sch's Winfield Packel - - - Smith  
Sloop Lydia - - - Benson  
Cargo of Sch's Alfred - - - Cranston  
s<sup>o</sup> of Sch's Sally - - - Noys  
s<sup>o</sup> Snow Eliza - - - Swain  
s<sup>o</sup> Sch's Peace & Plenty - - - Kent  
s<sup>o</sup> Brig Nancy - - - Hapsey  
s<sup>o</sup> Sloop Betty - - - Bowles  
s<sup>o</sup> Brig Betty - - - Philips  
s<sup>o</sup> Brig Baron de Carondelet - - - Bunkling  
s<sup>o</sup> Sloop Winsey - - - Cronin  
Sloop Little Betty - - - Lawrence  
Part of the Cargo of Sch's Dolphin - - - Watson  
Cargo of Sloop Neptune - - - Hawkins  
Sloop William - - - Sheppard  
Ship Vrai Republican alias Aug - - - Manner

Part of the Cargo of the Sloop Dolphin - - - Hayes  
Cargo of the Sloop William - - - Ruby  
Some Slaves on board Sloop Betty - - - Foster  
Cargo of the Sloop Ann - - - Hayward  
Part of Cargo of Brig Nancy - - - Quandrie  
Brig Mary (Cargo) - - - Vid  
Cargo of Brig Dolphin - - - Morris  
s<sup>o</sup> Brig Betty - - - Bernard  
s<sup>o</sup> s<sup>o</sup> Adventure - - - Stokesbury  
s<sup>o</sup> Sch's Thorn - - - Green  
Part of the Cargo of Brig Harriet - - - Kennedy  
Brig Good Hope - - - Charnock  
Part of the Cargo of Sloop Friendship - - - Hatch  
Brig Betty - - - Cartwright  
Sch's Sally - (Smith) - - - Brig Neptune - Burnham  
Sch's Active - - - Hodges  
s<sup>o</sup> Sally - - - Billings  
s<sup>o</sup> Commerce - - - Bowes  
s<sup>o</sup> Industry - - - Lamphear  
Sloop Hope - - - Higby  
Part of Cargo of Brig William - - - Coffin  
Cargo of Sch's Phauling - - - Dighton  
Sch's Luciana - - - Laurence  
s<sup>o</sup> Harriet - - - Simonson  
Part of Cargo of Sloop Commerce - - - Mafey  
Sloop Laurantia - - - Church  
Sloop Rodriguez  
Sch's Harriet - - - Croft  
Cargo of Sloop Betty - - - Warren  
s<sup>o</sup> Brig Marietta Haldah - - - Hick.

It is the following. And the first part is the  
 nothing to be done. And the second part is the  
 nothing to be done.

[illegible]

*[The page contains faint, illegible handwriting, likely bleed-through from the reverse side.]*

220-1

3. clasp court.

In the following cases the parties have taken  
 no steps to recover what has been captured, ~~something at Nassau~~  
~~the case is not yet done at the list~~

Bahama Islands Recd.  
Continued

Sch's James — — — Delfstrand  
 Part of the Cargo of Sloop Mary — Wells  
 Cargo of Sch's Sally & Betty — Webb  
 Part of Cargo of Sch's Polly — — — Mahon  
 Sloop Sally & Nancy — — — Cook  
 S. Mary — — — — — Ellwell  
 Brig Polly — — — — — Congdon  
 Sloop Sally — Whittell — — — — — St. Montgomerie — Rains  
 Brig Minerva — Paul — — — — — River — Philips  
 Ship Thomas — — — — — Heytham

Jamaica Recd. by the Molly  
Captain Frost

Sloop Mary — — — Wells  
 Tortola proceeds by unit Mitford 26 Feb 96  
 Ship Henrietta — — — — — Daddy  
 Part of cargo Sch's Industry — — — — — Ross  
 Sch's Sally — — — — — — — Calder  
 Part cargo Brig Philip — — — — — Katter  
 S. Sch's Hope — — — — — — — Sevier  
 S. Sch's Polly — — — — — — — Luns  
 S. Brig Ina Friends — — — — — Black  
 S. Brig Betty — — — — — — — Pease

~~the case was not found in the~~  
no steps to recover what has been captured, <sup>amounting to \$1000.</sup>  
At the following. Case the parties have taken  
I. Clap sent.

Robertson & Co. 1872

James A. Garfield by the author  
Capt. T. W. T. T. T.

*(Faint handwritten notes, possibly bleed-through from the reverse side)*

[illegible]

Mr. Jackson of Mass.  
and friends of Boston

The Lydia - Samuel Pinker Master

An Appeal from Jamaica

Case for Opinion

This Cause has been a considerable time set down for Hearing before the Lords, and is now forward on the List. An Intimation however has now been made by Mr. N. Gostling Proctor for the Captor and Respondent, that his Client is ready to submit to a Reversal of the Sentence in the Court below and that Restitution be decreed according to Account of Sales (to be exhibited) but without Interest, or costs either in the Court <sup>below</sup> or on the Appeal.

The Case and Appendix as prepared for the Press, and also sundry Documents transmitted by Messrs. E. Dutith and Wachsmuth as to the extent of their Loss by this Capture, are herewith submitted to your perusal.

And you are requested by Mr. Bayard to give your Opinion.

1st. Whether there is any prospect (after the decision of the Lords in the Sally, Hayes) of obtaining a more favourable Decree from the Lords than what is now offered by consent?

2<sup>nd</sup> Whether by accepting a Decree by consent in manner  
as offered, the Claimant would prejudice his right to  
Damages and full Compensation from the Board of  
Commissioners for carrying into effect the seventh Article  
of the Treaty between Great Britain and America?

The circumstances of the Sally, Hayes, do not appear to me  
so exactly similar to those of the present case  
as to extinguish all hopes of a more favorable  
Decision. In that Case, the original Sentence was given  
at Bermuda, and it was not proved, that his  
Majesty's Instructions of the 8<sup>th</sup> of January 1794 were  
known there. In a recent Case (The Hannah, Prosser)  
which was condemned at Jamaica before the Judges  
the Lords of Appeal have reserved the consideration  
of Interest. The Claimant should, if possible learn  
and be able to prove at the hearing, when it  
was, that the above Instructions were first  
known at Jamaica. The Sentence indeed in  
present case does not appear to have been  
founded on the illegality of the Trade, inasmuch  
as a part of the Cargo was restored. The Capt  
by not offering to consent to the Decree which  
they

222

they now propose, as soon at least as the legality  
of the Trade was pronounced for by the Court of  
Appeals, seem to me justly to have subjected  
themselves at all events to the payment of  
some Interest and Costs. The Claimant is bound  
(I think) if he means to apply to the Board  
of Commissioners, to get all the compensation  
due from the private Captor in the ordinary  
course of Judicial proceedings, and is not at  
liberty, to consent to any decree upon compromise  
with the Captor, unless it be manifestly  
clear, that better Terms could not be  
obtained under the decision of the Court of  
Appeal.

J. Nicholl

Commons,  
June 7<sup>th</sup> 1797

*[Faint, mostly illegible handwriting at the top of the page, possibly bleed-through from the reverse side.]*

*The original*

*written*

*Letter for*

*Dr. Nichols*

*5/95*



*Dr. Nichols*  
*Brooklyn*

*J. Nichols*

*June 7 1897*



London June 20<sup>th</sup> 1797 <sup>223</sup>

Sir,

In order that we may be able to exhibit a distinct and methodical account of the money that from time to time, has been, I may be paid, either by the Captors, or by the British Government, in compensation for the Losses of our Countrymen by the capture of their Ships and Cargoes & that we may likewise have it in our power to demonstrate that the Receipt, Custody and Payment of such Money have not afforded, Emolument or advantage to the public Agents charged with the care or superintendence of this Business, I have thought it advisable to recommend to you to adopt & observe the following Regulations.

First - - - Procure Duplicate Books, ruled in suitable Columns for the following Entries. - 1. Vessels name - 2. Masters name - 3. Owners name & Residence - 4. Sum decreed or awarded - 5. Rate and Sum of Interest - 6. Sum including Principal and Interest - 7. Sum deducted to reimburse the public advances - 8. Sum paid the Claimant - 9. Date of Payment to you - 10. date of Payment by you - 11. Signature of the Claimant or of His Attorney - This Column should be wider than the others (and headed with these words " we severally acknowledge to have received of S. Bayard, free of Commission and every Deduction the Sums expressed in the 8<sup>th</sup> Column against our respective names "- & in case of payment to an Attorney, you will require & file the power of Attorney as a Voucher

Second - - - at the periods apointed for the Payment of a Decree or of an Award, you will be punctual in your application to receive the money executing proper Discharges on the Receipt of Payment - and in

Cases

Cases of non-payment at the time assigned you will give me immediate notice by Letter specifying the case and the sum or sums, the payment whereof is delayed -

Third - - - That portion of each Decree and Award deducted for the reimbursement of the public advances, you will immediately after receiving it, pay to the Bankers of the United States Messrs. Baring & Co. to be by them carried to the credit of the public account on the head of "the Spoliation account"; the Residue of each Decree & award you will deposit with the Bank of England to the credit and Subject to the Drafts of "the American agent in the Prosecution of Five Causes" -

Fourth - - - - When required you will by Drafts on the Bank of England pay to the respective Claimants or to their legal Attorneys the entire sum decreed or awarded them free of all Commissions, Charges and Deductions, except only so much as may have been deducted and retained in each case for the reimbursement of the public advances.

Fifth - - - - As in some Instances the Claimant may not be present, nor have appointed an Agent to receive the sum decreed or awarded to be paid to him, you will in such cases, by the first opportunity write duplicate Letters giving to such claimant information of the sum decreed or awarded to <sup>be</sup> paid to him, & of the time when the same is decreed or awarded to be paid, in order that he may take reasonable measures to receive the same - It will also be proper that the Claimants should be informed by you that no Bills will be paid without Letters of Advice, that no partial Payments can be made, & that they must respectively draw for the

whole sum due to them in one set of Exchange - and as there is no reason to apprehend a want of punctuality in the payments by the British Government, it will be advantageous to the claimant to know that they may draw their bills at sight -

Sixth - In case the Claimant draws a Bill on you for the sum payable to him you will require the bill holder to sign his name in the proper Column of the Duplicate Book & moreover to acknowledge payment on the Bill which with the Letter of advice you will receive (and file as your Vouchers

With great esteem, I am

Sir,

your obed<sup>t</sup> Serv<sup>t</sup>.

Rufus King

P.S. I think it will be proper in preparing the Duplicate Books to add another Column which will show whether the money decreed or awarded, was paid by the Captors or by the Government. - This Column should be headed with these words "by whom paid" and should stand next to the 4<sup>th</sup> Column -

The first of these is the fact that the  
 Government has been unable to secure  
 the necessary funds to carry out its  
 policy of non-interference. This is  
 due to the fact that the Government  
 has been unable to secure the necessary  
 funds to carry out its policy of non-  
 interference. This is due to the fact  
 that the Government has been unable  
 to secure the necessary funds to carry  
 out its policy of non-interference.

"The above facts" are found after going to the 24 column  
 column. The following should be printed with these facts.  
 column. record is recorded and with the column in fact.  
 column. The following should be printed with these facts.  
 column. The following should be printed with these facts.  
 column. The following should be printed with these facts.

June 20

225

Appeals

# The Diligent - John Cunningham Master. Case for Opinions

This American Vessel and Cargo were taken and seized and afterwards to wit on the 13<sup>th</sup> Jan<sup>y</sup> 1794 condemned as Prize in the Vice Admiralty Court at Mountserrat under the Construction put upon his Majesty's Orders of the 6<sup>th</sup> November 1793. On the 17<sup>th</sup> July 1794 subsequent to the said Sentence of Condemnation a Claim was given in the said Vice Admiralty Court for the Cargo, and an Appeal interposed and allowed from the Sentence condemning the same.

1795

March

A Claim was given in the High Court of Appeals for the Vessel and Cargo as American Property and an Appeal at the same Time interposed from the aforesaid Sentence of Condemnation; and the usual Inhibition was extracted and served on the Captor.

October 16

H. Gostling appeared for the Captors & prayed a Libel which was brought in & a negative Issue given thereto and on

1796

April 23

The Process from the Court below was brought in and the Cause set down in the usual Course of Proceedings for Sentence on the first Appanation. In this Stage the Cause has been kept ~~in~~ ever since by the Captors Proctor, who has constantly opposed its being set down for Sentence before the Lords upon various pretences

of consulting his Counsel, obtaining the Direction  
of his party &c &c

At Length on the 19<sup>th</sup> June 1797 above  
Years after the Captains must have known of the  
Revocation of the Order of Council which furnished  
the only Pretence for capturing & condemning  
this Vessel, and above fourteen Months after  
the Cause was assigned for Sentence on the  
first Assignment the Captors by their Counsel  
offered to consent to the Reversal of the  
Sentence of Condemnation and to pay the  
Value of the Ship and Cargo according to the  
Account of Sales. See Mr Goshing's Letter.

This Offer is supposed to be made in Consequence  
of the Distinction drawn by the Lords of Appeal  
as to Costs and Damages between those Cases  
where the Capture took Place under the Order  
of the 6<sup>th</sup> November 1793 and those Cases where  
the Capture was made subsequent to the Revocation  
of the Revocation of the said Order

But allowing this Distinction to be in  
Favor of the Captors in the present Instance  
up to the Time when their Lordships laid  
it down as a Rule, in the Case of the Sally-  
on the 16<sup>th</sup> April 1796. It is submitted that the  
Claimants are, at all Events entitled to a  
Sentence reversing the Condemnation, restoring  
the Vessel and Cargo and decreeing the Value  
thereof to be paid to the Claimants (which  
Court

Course would be referred to the Register & Merchants to ascertain) together with the Interest and the Costs of the Appeal the whole of which might and ought to have been avoided by the Captors submitting in the first Instance instead of keeping the Claimants out of their Property as long as he possibly could.

And as the Claimants conceive they are intitled to full Compensation for the Loss and Damage sustained by this Capture, and mean, if they cannot obtain the same by Sentence of the Lords of Appeal to apply for such Compensation to the Commissioners, appointed under the seventh Article of the Treaty of Amity, Commerce and Navigation between Great Britain and America, they wish to have your Opinion on the following Points

First. . . . As the Rule is now understood in regard to those Cases intitled to Costs & Damages, and those that are not; Ought the Claimant in this Instance to be satisfied with the Offer made by the Captors of consenting to a Reversal of the Sentence and paying the Value according to an Account Sales, made up by themselves (and which, when it comes to be produced will probably fall very short of the real Value) without insisting upon the Claimants Right of also giving in an Account of the Value of the Ship and Cargo to be referred to the Register and

and Merchants to report thereon as usual, or making any Demand for Interest upon the Sum to be reported as due to them, or for the Cost of their Appeal

Second. . . . Can the Claimants who intend to apply to Commissioners appointed under the Treaty already stated safely agree to a Decree by Consent, by which Decree they tacitly, at least, relinquish their Claim to the full Value of their Goods at the Market to which they were destined and for those Cost and Damages for which they are afterwards to apply to the Commissioners who may consider the Claimant's own Act if he takes a Decree by Consent for anything short of the full Compensation) as a complete Bar to all Claim to further Compensation under the Treaty.

I am not aware, that the Lords of Appeal have as yet said it down that whenever the Seizure and Condemnation took Place before the Instructions of the 8<sup>th</sup> January 1794 were known, the net Proceed of Sale is the whole that the Claimant under any Circumstances can recover by their Sentence. They have only decided, that this was justifiable. The Captor is still responsible for subsequent irregularity or vexation. At all Events the Captor ought to have made the present of Restitution as soon as the Lords had pronounced on the Legality of the Trade, and appears to be liable to Interest and Cost at least since that Time. And as the Claimant is (supposed) bound to recover the Compensation he can obtain against the private Captor in the ordinary Course of Judicial Proceedings, before any Application can be made to the Commissioners I think he cannot with Safety accede to a Compromise with the Captor

only

227  
unless from Decisions already given by the Lords it  
be perfectly manifest, that more could not be  
obtained upon a Judicial hearing.

Commons

J. Nicholl.

June 20. 1797

(P) This case was laid before J. N.  
before ~~the~~ Mr. St. John knew of my having  
read his opinion in the Lydia - Tucker -  
S. B.

Appeals  
The Diligent J. Cunningham

Copy Case and Opinion  
Dr. Nicholl.

Ex

S.B.

Original - Cunningham

R. King Esq. (Comr).

San Geronimo St. 1 July 1897

Dear Sir

I have the honor to inform you that I attended this morning at his Majesty's treasury for the purpose of receiving the several sums stated in the several cases mentioned in the enclosed list. I was informed by Messrs. Rose & Young Secretaries of his Majesty's treasury that no particular provision had been made for the payment of these awards, but that there <sup>was</sup> every disposition in his Majesty's government to discharge them as early as possible & that provision for that purpose would be made without delay. It was proposed to me & the other gentlemen attending on similar business, to accept instalments on the awards. This proposition I stated that I ~~had no authority~~ <sup>had no authority</sup> ~~to accept~~ <sup>to accept</sup> -

Tuesday next is a fixed for another meeting on this subject when we are to learn the arrangements proposed to be made for paying off these awards.

I have the honor to remain  
Dr. Sir your most obedt. servt. S. B.



His Excellency

Quebec St. C. July 1794

230

Dear Sir,

I had the honor of calling on you

yesterday but had not the pleasure to find you at home. My object

was to inform you that pursuant to the appointment with Mr. Rose

I waited on him at the Treasury at 11 o'clock for the purpose of receiving

a warrant for the sums awarded by the Commissioners appointed under

the 7 article of the Treaty, & for the sums awarded by Sir Wm. Scott

& Dr. Nichol - Mr. Rose again asked whether no accommodation as to

time could be allowed Government. - I replied that I had no discretion

whatsoever on the subject being authorized simply to present the awards

for payment - after some further conversation Mr. Rose told me I

might call next day for a warrant for the sums awarded by the

Commissioners - but recollecting himself he asked if money for this purpose

had been voted by Parliament. He said he would enquire into this

matter & send me a note to inform me when I might call again,

but that I should hear from him & receive the money sometime this week.

Having conversed with Mr. Cabot & others authorized to receive the

money from me when paid on behalf of the Claimants, they wish me

to say to you that if you think it will facilitate the payment

of the awards in the case of Cost & damage they would have no objection

to accommodating Government with time to the 1. of August - taking

a note payable then at the Bank with Interest ~~to that day~~  
They wish you to be informed also that draughts have been made  
on the credit of these awards, & that ~~the execution of~~ orders from ameri-  
can Claimants are delayed until it is known when the money will  
certainly be paid.

A Difficulty has arisen with the Registrar of the Admiralty  
as to the propriety of his paying out to me as a general Agent  
money that has been paid into the Registry in a case where a claim  
having been given by another in the Court of Admiralty I appeared  
only as appellant. I have a full power of attorney from the Claim  
which however I do not think it expedient to produce till this point  
is settled - lest such production should be construed into a waiver of  
my general authority. The Registrar has consulted Sir W. Scott  
the case who is to submit it to the consideration of Lord Grenville.

You are the best Judge, Sir, whether it would not be useful  
that you also should see his Lordship on the Subject. In the discus-  
sion of it the inclosed Letter from the Secret<sup>y</sup> of State of the 15 Sept<sup>r</sup>  
1795 may afford you information & assistance -

At the same time you will no doubt avail yourself  
of the opportunity of Submitting to his Lordship the propriety of intro-  
ducing a Clause into the Prize act about to be brought into Parl<sup>t</sup>  
for extending the time for entering appeals in American cases as  
precedents have been had in any of the Vice-Admiral Courts of the  
West Indies

Included is a letter from Mr. Wentthrop late Director of the Bank - on the subject of this vote I shall hope for your further instructions - I must also beg your directions as to these cases of capture subsequent to the exchange of Ratifications of the Treaty where from the comparatively small loss sustained by the Claimts they may be advised not to prosecute an appeal on acct. of the delay & expense attending such procedure - as the Parties have been authorized to send forward their Papers to the Public Agents of the United States will it not be necessary to enter the appeals & as early as possible afterwards to inform the Parties concerned that unless provision be made for the prosecution of such cases at their own expense, the appeal will be abandoned?

Or is there any reason to hope that this Description of Cases may by some future arrangements between the Govern<sup>t</sup>. of G. Britain & the U. S. be put on as favorable a footing as cases where the Capture was prior to the 28 Oct<sup>r</sup>. 1795.

I have the honor to remain with the  
Sincerest respect & esteem

Dear Sir your most obed<sup>t</sup>. Serv<sup>t</sup>.

S. B.

[illegible]

on Sunday evening  
6 July 97.

Handwritten text, likely bleed-through from the reverse side of the page, including the words "Handwritten" and "Handwritten".

C. Gore & W<sup>m</sup> Pinckney Esq<sup>r</sup>.

Guilford St<sup>rt</sup> 10 July 1797 <sup>232</sup>

Gentlemen,

In my letter of the 12 June last I stated to you my hope of being able to give more attention to the examination of the evidence in the different cases of appeal for the purpose of ascertaining & supplying any deficiency in such evidence & I requested to postpone for a few weeks longer saying whether any further aid would be necessary -

That time has elapsed & I am sorry to say I have been able to make an examination but of no more cases owing principally to the interruption of my health for the last fortnight - as I have no reason to expect my health will be materially improved during the residue of the Summer I am under the necessity of asking some further aid in the examination proposed, at the same time I beg you to be assured that I shall use every exertion in my power to complete it with the least possible delay.

I remain Gent<sup>l</sup>  
with great respect & esteem your most obed<sup>t</sup> Serv<sup>t</sup>.

London 10 June 1797

Sir,

In your Letter of May in answer  
to ours of the 29<sup>th</sup> April requesting you to examine the claims  
Citizens of the United States for the purposes mentioned in that  
10<sup>th</sup> of the same month, you say "after devoting my time & at-  
tention thro' the present month, should I find myself unable to  
the examination by my own exertions, I shall notify you, with-  
out delay, of the same, that measures may be taken for procuring the  
necessary to complete it". We now request you would be so oblig-  
ed as to inform us the result of your reflections & exertions on this  
& whether you are capable, or not, of complying fully with  
desires, as communicated in the Letters referred to.

We are  
Sir,

With great Consideration

Your very obedient Servant

C. Gore  
& Wm. Pink

The Secretary of State

London 14<sup>th</sup> July 1797. - 233

Sir

I have the honor to inclose you sundry copies of letters to Mr King & to the Commissioners - D. Micholls opinion in 2 cares - with a list of the awards by the Board of Commissioners where the monies are made payable to me -

I am sorry to inform you that the Lords make very slow progress in the hearing & decision of the cares of appeal depending before them - & that the Judge of the admiralty has postponed hearing the Martinique cares till some time next month. They were assigned for hearing yesterday & the day before - but they are delayed in favour of others of an older date - the Judge says, "they will not take edd" -

I have the honor to remain  
Sir your most obed<sup>t</sup> serv<sup>t</sup>

Sanctuary

*[Faint, illegible handwriting on lined paper]*

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His Excellency R. King Esq.

Guilford Street. 10. Aug. 1797.

234

Dear Sir,

When I first received the appointment which I have the honor to hold under the United States it was supposed that the business on which I was sent would be closed in 18 Months or 2 Years. Already have nearly three years elapsed since my arrival in London. & it is with regret I have to say that from the dilatory Nature of the Proceedings in the Admiralty Courts of this Country I have been able to obtain but little of what is due to our fellow Citizens for the losses they have sustained by the Capture or Condemnation of their Property - A period however it is to be hoped is not far distant when the business will pass into another Channel - will be decided with greater promptitude - and more adequate Compensation be awarded - To this period I have for some time past look'd with anxiety - I have endeavor'd as justly as I could to estimate the Duties that will then devolve on the appointment I hold - and with them to compare the measure of health & power of application which I should probably possess & be able to employ in their Discharge - The result of this Comparison <sup>after</sup> long & mature deliberation aided by the advice of friends in America has been Conviction of its being my duty to request of our Government leave to resign; That another may be appointed in my place. —

This determination once formed I thought it my Duty without delay to Communicate to yourself. In many respects I was aware you might be able to turn it to the public Advantage, I sincerely hope it may not meet your disapprobation. — To me no unanswerable objection it has occurred. —

To the Consideration of my own health being inadequate to the duties that will ever long devolve on the place I have the honor to fill is added one, that to every feeling mind will not be left unimpressed, the delicate & more precarious state of Mrs Bayards health. Her illness of last Winter has greatly impaired a Constitution naturally very slender - has added to a Complaint in her breast, which exercise - a change of air - and the society of her friends in America might remove, but which being daily increased by her extreme Anxiety to visit her Native Country may in a short time prove serious & alarm if the prospect of our return should be postponed for any length of time.

Under the influence of these Considerations I propose writing to the Secretary of State by the W<sup>m</sup> Penn requesting permission to return home & that another may be sent to supply my place - My Successor will most probably come out to this Country by one of the returning Fall Vessels & I shall be able in the Spring to revisit the United States, with my family after an absence of nearly three years & a half.

On my return I flatter myself with the prospect of still being able to render Considerable Service to those of my fellow Citizens who have suffered by the British Cruizers - This I shall be the more capable of doing, from their Cases having been under my Charge. And from my residence which I expect during the greater part of the year will be in Philadelphia - On every Occasion I shall be happy to furnish every information in my power that will aid them in obtaining adequate Compensation for their losses. -

I have the honor to remain  
with great respect & esteem

Dear Sir

Yours &c  
S. B.

London 15 Aug<sup>r</sup> 1797.

The Secretary of State

Sir,

Inclosed I have the honor to send you the  
Copy of a Letter addressed to Mr. King on the 10 instant  
For the reasons expressed in that letter I have thought  
It advisable to request permission to resign the Ap-  
pointment I have the honor to hold under the  
Government of the United States - and must  
therefore beg the favor of you Sir. to lay the inclosed  
before the President of the United States and to  
request in my behalf for the reasons <sup>therein</sup> stated ~~in the~~  
~~inclosed letter~~ permission to return home, & that  
he will be pleased to appoint me a Successor -

I have the honor to be

with great regard

Sir. Your most Obed<sup>t</sup>. Servant

Sanctuary



20 Aug. 1894.

236

The Secretary of State

Sir,

Not being able to send by Mr.  
Reese a correct ~~copy~~ copy of my answer to the  
Sup<sup>r</sup> Bird Savage Wood, as agent of the U. S.  
it will be forwarded by the Ellen who sails  
to-morrow ~~on~~ next day -

I remain Sir

Yours most obed<sup>t</sup> serv<sup>t</sup>

Saml Bayard

*[Faint, illegible handwriting on lined paper, possibly a letter or document.]*

J. Bayard Esq. Doctors Commons

237

20th October 1797.

Sir,

The late unexpected Circumstance of all the Matters in the Court of Admiralty, respecting the Captures of American Ships and Cargoes at Martinique &c being ordered to stand over, notwithstanding, the Captains Counsel as well as our own were prepared to enter fully into the Business, you are already acquainted with — In our proposing that some Day, might be appointed for recommencing this business (and more particularly by reason that, in Obedience to the Order of the Court for exhibiting further proofs of the Capture & Property, of sundry of the Ships & Cargoes, we were, as we conceived, furnished with such further Proof) no Day was fixed by the Court; but a Declaration being made that a Considerable List of old Causes respecting Ships & Cargoes still unadjudged and waiting in the Ports here for Decision would be first dispatched, after which the Martinique Cases should be heard; we think it proper to acquaint you that we are unable to say what length of time may be taken up in dispatching such prior List of Causes, and that we recommend, and it is with the advice of

of D<sup>r</sup> Nicholl that we do so, that such time should be employed in your procuring what we term a Test Affidavit from the respective Proprietors, notwithstanding the proofs we may already have, for now seeing so much Delay in addition to what has been already experienced without it is not an impossible thing but that ultimately when the Cases do come on, an Order may pass for even this Test Affidavit, notwithstanding all our said further & other proofs; though indeed in some Cases (were it not for the Captors Conduct and their long opposition, which ought to under it need less to require such strict proof from the Claimants) the Test Affidavit may more justifiably be passed for —

It is therefore that we send you herewith the enclosed forms of such Test Affidavit of Property, — recommending your dispatching them immediately to America, in order that they may be there duly transcribed (supplying the Blanks) sworn to, authenticated, and returned to you that we may be furnished with them in case the Court should require them to be exhibited.

We however submit the whole to your Consideration the present measure being advis'd by D<sup>r</sup> Nicholl, being desirous of avoiding all unnecessary trouble to you and the Proprietors, and of not furthering the Concerns

with any Increase of Expence herein that is not absolutely  
regiusite 238

We remain with great Esteem

Sir,

Your very obed<sup>t</sup> Serv<sup>t</sup>

Crickitt & Townley.



The Secretary of State

London. 25 Oct<sup>r</sup> 1797  
239

Sir,

It is with extreme regret that I convey you the information contained in the inclosed Letter from Mess<sup>rs</sup> Quickitt & Townley - from a Day having been positively assigned for hearing the Martinique Cases I presume or their being certainly all determined between the 12<sup>th</sup> & 16<sup>th</sup> of next Month. —

We do not yet learn when the Court of Appeals will meet to hear & decide the many Causes that are now & have long been set down & ready for hearing — The Board of Commissioners will meet to dispatch the business then the beginning of middle of the ensuing month —

Inclosed is a Duplicate of my account with Mess<sup>rs</sup> Bird Savage & Bird & Exhibitions in the Neptune & William

I have the honor to remain

Sir with great regard

Your most Obed<sup>t</sup> Serv<sup>t</sup>

Sam Bayard

Dec 15 Jan 11 1798.

N.B. No indulgences were received with this  
letter except what is Gricket & Rowley's  
letter.

The Secretary of State

London Oct<sup>r</sup> 31<sup>o</sup> 1797.  
240

Sir

I have the honor to enclose you the forms of the further proofs which it is thought by our Counsel & Proctor will be necessary in the Slope - Moodie - the Juno - Parker the Sterling Eddy & the Sewell - Howland - There are Cases in which the late M<sup>r</sup> Peter Le Maigre is concerned - I have frequently written for information to different persons respecting the representation of M<sup>r</sup> Le Maigre but have never yet learnt whether he left any Executors or whether any person has administered in the Estate - The property in dispute is considerable & deserves the attention of M<sup>r</sup> Le Maigre's connections if he has left any,

I have the honor to be

with great regard Sir

Your most Obed<sup>t</sup> serv<sup>t</sup>

Lambert

Sub -

Recd by the Hazard  
near N. York



We have perused & considered the several American Cases, which have been referred to us by the Governments of G. Britain & America — being most of them, cases that depended upon the mere Question of costs and damages, and all of them on that acct. or on other acct.<sup>s</sup> of a similar nature, being deemed improper to become the Subjects of regular appeals

In addressing our attention to this business We understood it to be our duty, a duty imposed upon us by the nature & necessity of the Case, to content ourselves with much less than legal Evidence in proof of the several matters alleged — to award such Compensations as appeared, <sup>to us</sup> to be reasonable without Reference to strict Rules of Law as the measures of such compensations — & to use a liberal discretion, throughout as well in the final Results, as in the previous Discussions which led to them, in each particular Claim

Setting off with this understanding of the nature of our duty, we have nevertheless found considerable difficulties in the execution of it — The proofs on which we have had to determine have been in most Cases ~~by~~ <sup>by</sup> parte the Captors who are charged with the Acts of wrong-doing — not having appeared before us in any manner, nor being, as far as we know, affected with any notice for that purpose — These ~~by~~ <sup>by</sup> parte proofs we have found to be highly irregular & Defective to such a Degree as to be totally inadequate, to the Support of the demands which have been founded upon them, & which, under the Imperfection of the present proofs we have been compelled in most cases to consider as insufficiently sustained — at least in point of extent

Feeling these difficulties, we have notwithstanding judged it to be our duty to proceed to a determination upon the several Cases, with the exception of a very few in which we have found it absolutely impossible to proceed to any conclusion without further Information; Conceiving that it was most advantageous for all concerned, that the Claims should receive a speedy determination upon such Proofs, as the aggrieved Individuals had thought fit to offer (the same being duly considered) rather than that, after a delay which has been the occasion of much complaint, the business should still be kept open by an Enquiry after more satisfactory Proofs, which, under all circumstances of the Remoteness of time & place & the disposition of parties and papers, we cannot but consider as nearly unattainable.

Under this sense of difficulties & upon this understanding of our duty, we have finished our awards, which we transmit to the Agents of the respective Governments by which we are employed; not without expressing our conviction, that however they may fail of giving entire satisfaction to Individuals whose expectations may (perhaps naturally enough) be inflamed by Rapine and Interest. They are such as, on a just respect being had to all circumstances, we ought most deliberately & conscientiously to approve.

Signed Wm Scott  
Jno. Nichol

Letter John S. Smith Esq  
Chargé d'Affaires U.S.A.  
London.  
1811.

(Copy)

243

John. S. Smith Esq.  
Charge d'affaires U. S. at London }

Dear Sir,

St. Petersburg 5<sup>th</sup> July 1811.

The ship Horace Capt. Thomas Leach  
belonging to Mr. William Gray of Boston, arrived a few  
days since at Cronstadt, having sailed from Boston about  
the 5<sup>th</sup> of April last. Capt. Leach states that about the  
5<sup>th</sup> of May, the Horace was boarded by the British Sloop  
of war Plover, Capt. Campbell, who detained Capt. Leach  
on board his ship, broke open & read letters  
addressed to me, though directed with the express indication  
my official character; forcibly took from him two  
his men, named Francis Flood and Samuel Patterson, both  
being protecting, and compelled him to take two men,  
belonging to the Plover, British subjects named Myrick  
Winston and John Gray, unserviceable as seamen, and  
only fit objects for a Hospital of Invalids.  
I have communicated this information to the Government  
of the U. States, and have also through the proper & give  
notice of it, that the British Government may be  
made acquainted with it in such a manner as you  
shall think advisable. With regard to the breaking  
open of letters addressed to a public Minister, I think  
the act ought not to be passed over in silence.

Very

They were in this instance private letters and contained nothing which could gratify the curiosity, or any other motive of a stranger. On my own account I have no desire to make it a subject of complaint; but I trust, it can not be approved by the Government, and that as constituting a part of Capt. Campbell's conduct on this occasion it ought to be laid before Them. The imprisonment of the men from the Horace, is only one example of injury concerning which it may be useless to say more than to claim Them. But the other part of the transaction, is not only extraordinary in its nature, but presents itself under an aspect which must attract the attention of the British Government, not merely in regard to the right of a foreign nation, but in reference to the education of their naval service. In forcing Capt. Leach to take two unrated British Seamen on board his ship, Capt. Campbell put upon him an insupportable burthen, for which he could have no possible pretext, or justification. But considering it in the light of treatment to his own sick men, it is to be presumed the circumstances will not be overlooked by the Admiralty to which this Officer is responsible.

I am with great regard to you  
Dear Sir, your very humble and  
obedient servant

Signed

John Quincy Adams

Bentley St. September 14<sup>th</sup> 1811.

My Lord

I hasten to lay before your Lordship  
an occurrence, of which I have just received  
information from Mr Adams Minister  
Plenipotentiary of the United States at St. Petersburg.

The American vessel Horace, Capt.  
Leach, when pursuing her voyage to Russia,  
was boarded on the 25<sup>th</sup> May last, by His  
Britannic Majesty's Sloop of War, Plover,  
Capt. Campbell. who detained Capt. Leach  
five hours, on the High Seas, opened & perused  
letters addressed to Mr Adams, though bearing  
the superscription of his official character, took  
from the Horace two Seamen both American  
Citizens, and compelled Capt. Leach to receive  
two British Seamen, invalids and totally  
incapable of rendering any kind of service.

The Most Noble

The Marquis Wellesley.

This

This outrage, (as it appears to me), is  
marked in the first place, for its violation  
of the privileges and the respect due to the  
Diplomatic Character of Mr. Adams; in the  
second, for its disregard and contempt of the  
rights of the U. States, in forcibly two of their  
Citizens, thereby cruelly depriving of her -  
seamen, a Merchant vessel, very rarely, if ever  
having more on board than are sufficient  
for the purposes of secure navigation; and in  
the third place, I must be permitted to add,  
for the peculiar inhumanity in replacing  
them by others, altogether disabled and un-  
fit objects for an Hospital. In such a  
transaction I am fully persuaded His Majesty's  
Government can have taken no part - and  
have too much confidence in its sense of  
justice & magnanimity, to suppose for  
moment, that it will suffer one of its  
officers

Officers to commit with impunity an offense so abhorrent from the plainest principles of right, and which surely, no sound policy can be supposed to sanction.

The letters addressed to Mr Adams, were not it is true, official, but I do not conceive, that this can in any way lessen the offence of Capt. Campbell, who must have been unacquainted with this circumstance until he had gratified his curiosity by the perusal of them. And with regard to the impaeced seamen, he could have had no doubt of their being American citizens, as they had regular passports, by which their National character might have been unequivocally ascertained. - I take the liberty of requesting your Lordship to have the necessary means adopted, for their immediate release.

I have the honor to subjoin their names, viz: Francis Flood & Samuel Patterson.

J

I have the honor to be with the highest  
consideration & respect, your Lordship's  
most obedient humble servant  
J. Smith.

to x. J. Smith  
from J. Smith.

(copy)

The Marquess Wellesley  
presents his compliments to Mr. Smith,  
and has the honor to acknowledge the  
receipt of his letter complaining of the  
conduct of His Majesty's ship *Plaver*  
towards the American ship *Hornet*; and  
to inform him, that he lost no time in  
transmitting the same to the Lords  
Commissioners of the Admiralty, in  
order that their Lordships might cause  
the necessary enquiries to be made into  
the circumstances of the case.

The Marquess Wellesley will  
not fail to communicate to Mr. Smith  
the result of those enquiries.

Foreign Office

September 18. 1811.

*[Faint, illegible handwriting throughout the page, likely bleed-through from the reverse side.]*

(Copy)

247

John J. Smith Esq.  
Charge d'Affaires of the  
United States of America. London.

St. Petersburg 21 Sept.  
1811.

Dear Sir

I had the pleasure of writing  
you the 25<sup>th</sup> of last month by the *Mercurio*  
*Navarro*. Since then I have seen in the  
English newspapers, a printed letter or  
memoir under the name of the Duke of  
Cadore, and addressed as most confidential  
to His Excellency — I consider it as an  
undoubted forgery, but I should not think it  
worth mentioning to you, had not an editorial  
article in the *Courier* of 30 July, (where I first  
saw this supposed State Paper) made use of  
my name to account for its publication.  
It asserts that this document was communicated  
by the Russian Government to me, and was  
transmitted by me to the Government of the  
United

United States, and also to my father, through  
whom it was first published. - Every part  
of this story is untrue. I never received from  
the Russian Government the communication  
of any such paper, and never transmitted,  
either to our Government, or to my father,  
a copy of it, or of any thing bearing resemblance  
to it. - If any occasion should happen on which  
you may deem it expedient to say this,  
I authorize you to make this declaration  
in my name, and even to make it public  
such manner as you think advisable in the  
news-papers.

I am with great esteem, Dear Sir, your  
friend & H<sup>ble</sup> Servt.

(Signed) John Quincy Adams

(Copy)

Bentley St. September 25<sup>th</sup> 1811

My Lord.

A vacancy having taken place  
in the American consulate for the Port  
of London, by the death of General Lyman,  
I have in pursuance of the power vested  
in me as (charge' d' Affaires of the  
U. States) appointed Reuben Gaunt  
Bresley Esq. to that Office until the  
Pleasure of the President shall be  
known. And I beg that your Lordship  
will have the necessary steps taken  
that he may be acknowledged as such  
by the proper Authorities here.

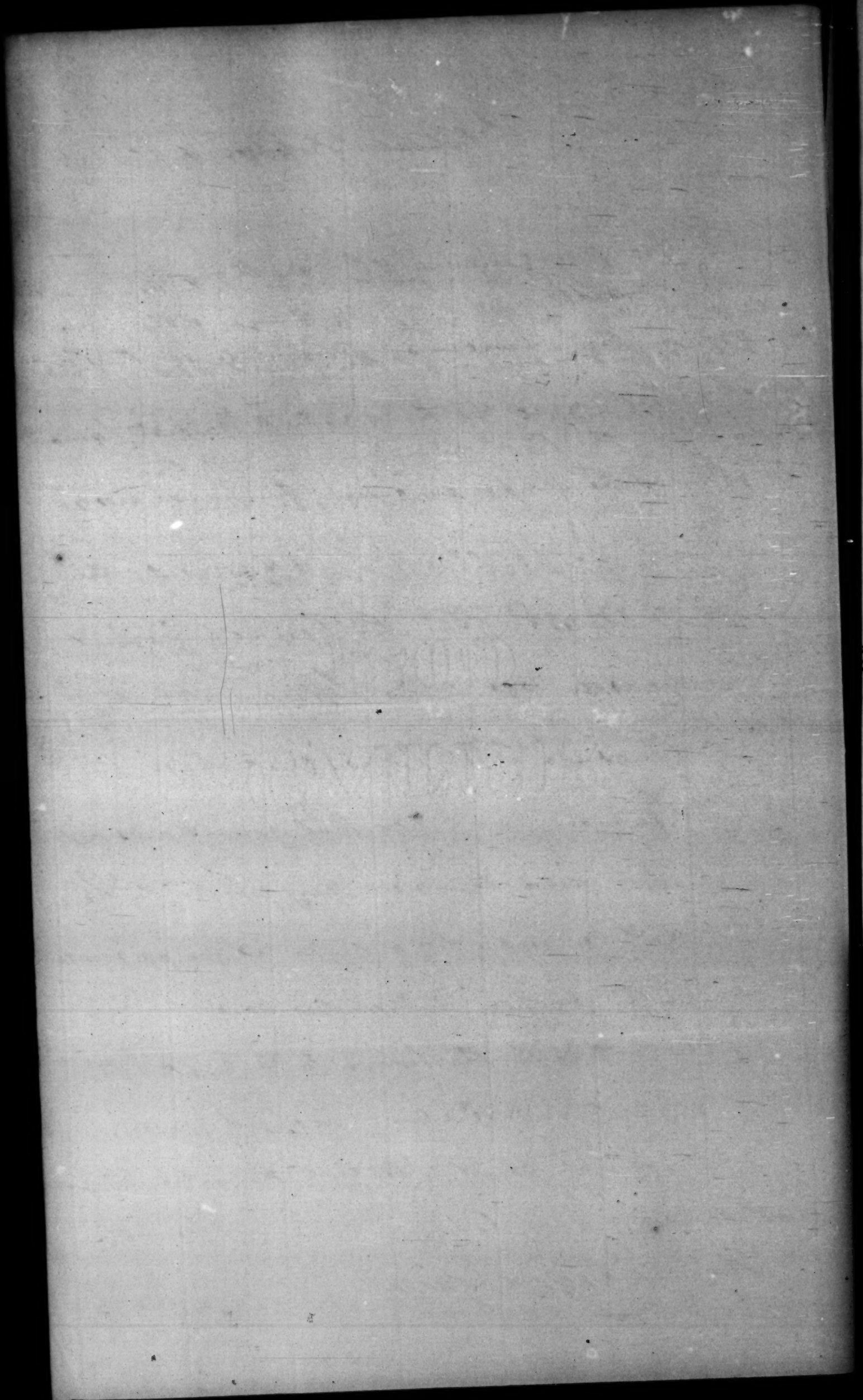
I have the honor to be with the  
highest consideration & respect, Your  
Lordship's, most obedient humble servant

Most Noble

J. Smith.

The Marquis Wellesley.

— 22 —



Copy.

Bentley St. Sep: 25. 1811

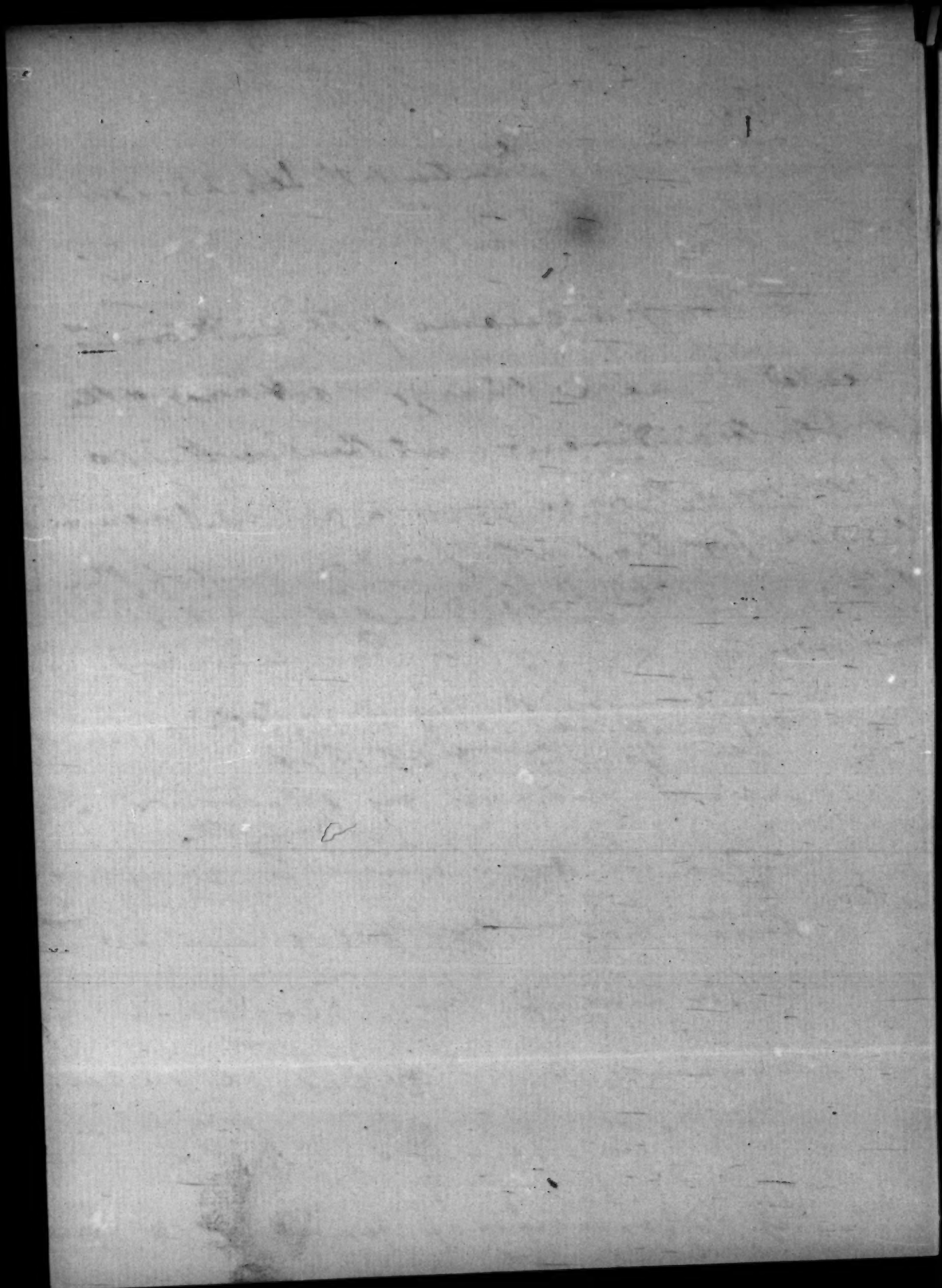
Sir-

In pursuance of the authority  
 vested in me as (Charge) d'affaires of the  
 U. States of America at this Court, I do  
 hereby authorize you to act as American  
 Consul for the Port of London, until the  
 Pleasure of the President shall be  
 known -

I am with great esteem,  
 Sir, Yr. Most Obedt. Servt.

Wm. Smith

Leuben Gaunt Beasley Esq.



(copy)

250

The Marquis Wellesley has the honor to inform Mr. Spencer Smith, in answer to his note of the 25<sup>th</sup> instanc, announcing the decease of General Lynd and the appointment, protempore, of Robert Gaunt Bessley Esq. to the American Consulate for the Port of London, that the same has been notified to the Lords Commissioners of His Majesty's Treasury and to the High Court of Admiralty, in order that no obstacles may be thrown in the way of Mr. Bessley in the execution of his official functions.

The Marquis Wellesley takes this opportunity of renewing to Mr. Spencer Smith the assurances of his high consideration.

Foreign Office

27<sup>th</sup> Sep<sup>r</sup> 1811.

*[Faint, illegible handwriting, likely bleed-through from the reverse side of the page.]*

Duplicate.

London 26th. Nov. 1811.

251

Sir

I have the honor to enclose the copy  
of a letter from Mr Adams detailing  
the conduct of Captain Campbell of H. B.  
Majesty's Ship Plover, towards Captain  
Leach Master of the American vessel Horace,  
and also my representation to Lord Wellesley  
and his answer on this subject. This affair  
has rested here - and I have not been informed  
of the result of the enquiries to be made, by the  
Admiralty.

I have the honor to be, with great  
respect, Sir, yr. obt. Hble. Servant

J. Smith.

Honorable

James Monroe.

— — —

S

London October 15<sup>th</sup> 1811.

Sir

I have the honor to inform you that I have appointed Mr Beasley of Virginia to the vacancy occasioned by the death of General Lyman. This gentleman has been connected with the very respectable commercial house of this place - Messrs. Bell, from which concern, he is now detached.

From my intimate acquaintance with Mr Beasley - I feel confident that he is in every respect qualified for this Office - and that he will discharge its duties with that probity and honor so necessary for an American Consul at this Port; - And I need not add that the confirmation of his appointment by

honorable

James Monroe.

— — —

The

The President, would afford me the  
greatest pleasure.

I am Sir with very great respect  
your most obedient humble servant

Wm. H. Smith.

S. V

Copy.

London Octb: 30<sup>th</sup> 1811

253

my Dear Sir

I have this moment had the pleasure of receiving your letter of the 21<sup>st</sup> ultimo - via Gothenburg - and shall whenever the opportunity presents itself give publicity to your disavowal of any knowledge of the pretended "State Paper". It would be difficult however to do this at the present moment, when this Paper has been completely forgotten - and when indeed almost every one is convinced that it was a fabrication. I shall however make it my duty to state on all occasions what you have thought proper to authorize me to do. And to do vice a forgery, it is perhaps better that its reputation should be made known, through the Government when publishing other communications from

from its agents abroad than through  
the medium of a news-paper.

We have gazette from America  
of a late date. They contain nothing  
however of any importance, except the  
publication of the evidence adduced  
before the Court of Inquiry - investigating  
the conduct of Commodore Rogers.  
The tendency of all of which is to compel  
to establish the official account, which  
are given to the Secretary of the Navy  
of course each Government is left to  
give credit to the statements of its  
respective officers.

I am with the sincerest regard  
My Dear Sir your faithful & obedt. Servt.  
His Excellency.  
John Quincy Adams.

Mr Smith presents his compliments  
to Mr. Monroe - and has the honor  
of enclosing a letter from Mr. Adams  
relative to the forged State paper.

London. Nov: 16<sup>th</sup> 1811.

HENRY CRAIG

OCTOBER 12, 1794

MARTINIQUE

Sir

Martinique 24<sup>th</sup> October 1798

My last Respect to you was dated 24<sup>th</sup> July  
in Reply to yours of the 24<sup>th</sup> May last, in which you are informed  
that no late Instance of Impressing an American has occurred  
the last 16 Months — however I am sorry to Inform you, that  
by the last Cartel, we have Received upwards of 40 of those unfor-  
tunate men, who were Released from Prison at "Pau de Loupe"

Concerning that the late act of Congress Respecting destitute  
Seamen, did not extend to this class of Men, as their situation  
was new — Consequently have only afforded them a Partial  
Supply, — and have Placed them in separate Vessels which  
are bound to America the next Convoy — — — — —  
as we shall have frequent Returns of these Men by British  
Cartels, and it may happen that very few Vessels at that  
moment may offer for America — I am of Opinion

that some Provision should be made for them, Consistent  
with the strictest Economy — These last from  
Gaudeloupe, Mr. Relapied on Parole, as Admiral Harvey  
informed <sup>me</sup> (a few days ago) that he had not received any  
instructions to Exchange an American Seaman for a Frenchman  
— he added that he was confident that such  
arrangements would take Place —

I should be happy to receive a line from you on  
this Subject —

I have the honor to be with  
great Respect Your Obedt<sup>l</sup>

Henry May

ay  
L  
n

Handwritten text, possibly a signature or address, including the word "London" and "England".

Handwritten text on the left margin, including the word "London" and "England".

~~Mr~~



Timothy Pickens Esquire

Secretary of State

New Norfolk

Philadelphia